

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3816 OF 2023

Anil s/o. Chandrakant Atak	]	
Age 65 years, Occ. Pensioner,	]	
Presently residing at -	]	
Old B.D.D. Chaul, Building No. 16,	]	
Room No. 57, B.J. Deorukhkar Marg,	]	
Naygaon, Dadar (East),	]	
Mumbai – 400 014.	]	... Petitioner

Versus

1.	The State of Maharashtra	]	
	Department of Tribal Development,	]	
	Mantralaya, Mumbai – 32.	]	
	Through its Secretary.	]	
2.	The Scheduled Tribe Certificate	]	
	Scrutiny Committee,	]	
	Konkan Division, Thane,	]	
	Dist. Thane.	]	
	Through its Member Secretary.	]	
3.	The Deputy Chief Engineer (S.O.),	]	
	E/S, Municipal Corporation of	]	
	Greater Mumbai,	]	
	Near Shoppers Stop, Chembur,	]	
	Mahul Road, Ghatkopar (East),	]	
	Mumbai – 400 089.	]	... Respondents

Mr. Sushant C. Yeramwar a/w. Mr. Saurabh P. Tandale for the Petitioner.
Mr. Siddheshwar B. Kalel, A.G.P for the Respondent-State.

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : 10th December 2025.

ORAL JUDGMENT (PER : M. S. KARNIK, J.)

1. Heard learned counsel for the Petitioner.
2. The Caste Claim of the Petitioner is rejected by the Respondent No.2- The Scheduled Tribe Certificate Scrutiny Committee, Konkan Division, Thane (For short, “**Scrutiny Committee**”) on the ground that in the school records the caste shown is “Hindu Magaslela Thakar”.
3. Learned A.P.P. submitted that on his own showing, the Petitioner has stated himself to be “Magaslela”, as such the Scrutiny Committee has correctly invalidated the caste claim.
4. Our attention is invited to the decision dated 16th April 2018 of this Court in *Dilip s/o. Mahadev Mhaske Vs. The State of Maharashtra & Ors. in Writ Petition No. 1158 of 2018* in support of the explanation offered by the Petitioner. Paragraph No.4 of the said decision reads thus :

“4] In the petition, the petitioner has offered an explanation as to the issuance of such a document and recording of the caste as “Hindu Magaslela”. It can be seen that earlier point of time

“Thakar” community was recognised as Nomadic Tribe. However, in view of coming into force the Scheduled Tribe 1950 Order, it came to be included in the S.T. Category. The Government of Maharashtra had issued a communication on 30th August 1979 to the President Gokul Prkalp Prathisthan, Kudal directing that the caste Thakar is included in S.T. category and all Thakars from Ratnagiri district be treated as Thakar S.T. The said communication is placed on record by the petitioner. However, it is pertinent to note that the Director of Education had issued a communication as long back as on 22nd May 1968 wherein it had directed that while taking entry in relation to caste and religion at the time of admission of the student, there is no need to mention the caste in the school admission register. It was also directed that, if any such type of entries are recorded, those should be removed and only religion and remark as to whether belongs to Backward Class or not should be written so that the students should take benefit of Education. In the light of the said circular dated 22nd May 1968 and a Circular issued on 28th October 1969, the entry in respect of Vitthal Soma Masake came to be corrected to read as “Hindu Magasvargiya”. The Committee has also relied upon the said entry which is a solitary one in ignorance of all the pre-constitutional documents reflecting the caste of the ancestors and the close blood relatives of the petitioner as “Hindu Thakar”. The Committee has also referred to the fact that the petitioner has also obtained a certificate as belonging to N.T. and he has concealed the information that he has obtained such a certificate.

However, in this connection, learned Counsel for the petitioner has specifically invited attention of this Court to the judgement of this Court in WPNo.6048 of 2004 where the court has dealt with a G.R. whereby “Thakar” community was notified as N.T. But this Court by its judgement has specifically observed that the said caste was wrongly recognised as N.T. and since in the light of change in policy of the State Government the caste Thakar was already placed at Entry No.44 of Scheduled Tribe Order, the said entry of being Nomadic Tribe was found to be erroneous. In the light of the aforesaid fact there was no fault on the part of petitioner in obtaining a certificate of belonging to N.T. since the State Government itself had recognised the caste Thakar as N.T. for a period of time.”

The aforesaid observations support the case of the Petitioner.

5. There is no dispute that the close relative of the Petitioner i.e. his real brother Mr. Vijay Chandrakant Atak, has been issued a Certificate of Validity by the Scrutiny Committee, which is at page No.35 of the paper-book. Once the close blood relative of the Petitioner has been granted the Caste Validity Certificate, then the claim made by the Petitioner is squarely covered by the decision of this Court in *Apoorva d/o. Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee & Ors.*¹, and even the Petitioner would be entitled to have his caste claim validated.

¹ Writ Petition No. 1504 of 2010, dated 27th July 2010.

6. The impugned Order is therefore quashed and set-aside. The Respondent No.2-Scrutiny Committee is directed to issue a Certificate of Validity to the Petitioner as belonging to “Thakar (44), Scheduled Tribe” within a period of eight weeks from the date of communication of this Order.

7. It is made clear that this Petition is allowed in view of the Certificate of Validity granted in favour of the Petitioner’s brother Mr. Vijay Chandrakant Atak.

8. Liberty to take appropriate action against the Certificate of Validity granted to the Petitioner is kept open, in case any adverse Orders are passed in respect of the Certificate of Validity issued to the Petitioner’s brother.

9. Needless to mention that the Petitioner is now being issued with the Certificate of Validity, the pensionary benefits if withdrawn only on the ground that the Petitioner’s Caste Validity Certificate is invalidated, should be released by the Municipal Corporation of Gr. Mumbai on an application so made.

10. Petition is disposed of in above terms.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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