



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12331 OF 2022**

Mangesh Girish Sarjerao
Major of age, Occ. Service
R/o Maharashtra Housing Board
L-27/105 Yerwada Pune

... Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Scrutiny
Committee Pune Division Pune.
3. The Jt. Director
Technical Education
412-E, Shivaji Nagar, Pune-16
4. The Principal
Govt. College of Engineering
and Research At Post Avsari (Kh)
Tq. Ambegaon Dist. Pune

... Respondents

...

Adv. Anandsingh Bayas for the Petitioner.

Adv. Pooja Joshi Deshpande for Respondent Nos.1 to 3.

...

**CORAM : NITIN W. SAMBRE &
ASHWIN D. BHOBE, JJ.
DATE : 23rd JANUARY, 2025**

ORAL JUDGMENT : (PER ASHWIN D. BHOBE J.)

1. Heard.

2. The Respondent No. 2 by its decision dated 22.08.2022, has invalidated the claim of the Petitioner of belonging to the “Thakar” Scheduled Tribe Category (“impugned order”).

3. **Factual Matrix** :-

- (a) On 29.10.2021, the Petitioner was granted Caste Certificate in Form ‘C’, by the Sub-Divisional Officer (Revenue), Mhada.
- (b) Petitioner secured employment as a Machinist in the Government College of Engineering and Research. Petitioner was issued Appointment order on 11.06.2012.
- (c) The Respondent No. 5, by its letter dated 13.09.2012, referred the Tribe claim of the Petitioner to the Respondent No.2 Scrutiny Committee.
- (d) The Respondent No. 2, after a lapse of more than 10 years, by the impugned order, invalidated the Tribe claim of the Petitioner. Grounds on which the Respondent No. 2 has invalidated the Tribe claim of the Petitioner are as follows :
 - (i) Documents and the other material produced on record, do not establish the claim of the Petitioner as belonging to the “Thakar” Scheduled Tribe category.
 - (ii) Petitioner has failed to prove his affinity with “Thakar” Scheduled Tribe Category.
 - (iii) Petitioner has failed to establish his ethnic linkage by way of affinity test with “Thakar” Scheduled Tribe.
 - (iv) Validity Certificates relied by the Petitioner from his paternal side relatives cannot be considered.

4. Mr. Anandsingh Bayas, learned Advocate for the Petitioner submits that documents from the paternal side relatives of the Petitioner showing his Caste as 'Thakar' Scheduled Tribe, were placed before Respondent No.2. He further submits that Caste Validity Certificates of Jagruti Nandkumar Sarjerao (cousin sister) and Tanaji Dattatraya Sarjerao (cousin cousin cousin uncle), who are the paternal side blood relatives of the Petitioner were relied before Respondent No.2. According to Mr. Bayas, Respondent No. 2 has ignored the material placed before it and therefore, erred in invalidating the claim of the Petitioner. Mr. Bayas relies on the following decisions.

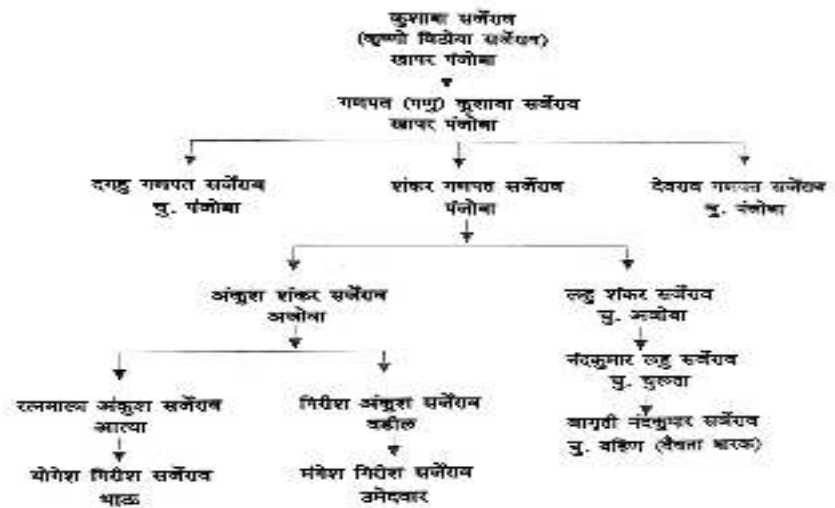
- a) *Bharat vs. State of Maharashtra and Ors.[2004(1) Mh.L.J. 647; and*
- b) *Tanaji Dattatray Sarjerao vs. The State of Maharashtra And Ors.[WP No. 12369 of 2019 dt.14.12.2024].*

5. Ms. Pooja Joshi Deshpande, learned AGP, has defended the impugned order of Respondent No. 2 by relying upon the reasons set out therein and it is her contention that the petition deserves to be dismissed.

6. With the assistance of the parties, we have perused the record. From the rival contentions of the parties, the question for determination is whether the Petitioner on the basis of documentary evidence/material has been able to establish that he belongs to 'Thakar' Scheduled Tribe ?

Analysis :

7. Genealogy tree, relied by the Petitioner is transcribed herein in verbatim :



8. Jagruti Nandkumar Sarjerao (“Jagruti”), cousin sister of the Petitioner, has been issued Caste Validity Certificate by the Respondent No.2 Scrutiny Committee. Show Cause Notice, was issues to Jagruti, by Respondent No. 2, calling upon her to show cause as to why her Caste Validity Certificate should not be recalled. Jagruti questioned the said show cause notice in Writ Petition No. 8513 of 2022. This Court, vide order dated 01.11.2023, allowed the said WP No. 8513 of 2022. Thus, the Caste Validity of Jagruti being “Thakar” Scheduled Tribe is intact.

9. Tanaji Dattatray Sarjerao (Tanaji), though not referred to in the genealogy tree relied by the Petitioner, however reference to Tanaji is found in paragraph 41 of the memo of petition, being referred to as

the cousin cousin cousin uncle of the Petitioner. Respondent No.2 in the impugned order has made a reference to the Caste Validity case of Tanaji.

Caste Validity of Tanaji came for consideration before this Court in Writ Petition No. 12369 of 2019. This Court by its order dated 14.12.2024, by placing reliance on the decision in the case of Jagruti, has allowed the Writ Petition No. 12369 of 2019, granting “Thakar” Scheduled Tribe Certificate to Tanaji.

10. Respondent No. 2 did not find the Petitioner’s relationship with Tanaji and Jagruti disputable.

11. During the course of argument, Mr. Bayas, learned Advocate for the Petitioner has placed reliance on another judgment dated 14.09.2023 of this Court in the case of Jui Shivaji Sarjerao (Jui) versus the State of Maharashtra and Anr., passed in WP No. 10484/2023. Mr. Bayas contends Jui to be the daughter of the cousin brother of the Petitioner thus, cousin niece of the Petitioner. Jui is granted Caste Validity Certificate as belonging to “Thakar” Scheduled Tribe by this Court.

12. Section 8 of The Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of

Issuance and Verification of) Caste Certificate Act, 2000 (“**Said Act**”), mandates the burden of proving that a person belongs to a Caste, Tribe or Class, is upon such claimant who claims to belong to such a particular Caste or Tribe. Section 8 for the sake of convenience is transcribed herein below.

Section 8 Burden of Proof.

Where an application is made to the Competent Authority under section 3 for the issue of a Caste Certificate in respect of Scheduled Castes, Scheduled Tribes, De-notified Tribes, (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes or Special Backward Category and in any enquiry conducted by the Competent Authority and Scrutiny Committee or the Appellate Authority under this Act or any trial of offense under this Act, the burden of proving that the person belonged to such Caste, Tribe or Class shall be on such claimant applicant.

13. Keeping the afore referred mandate in mind, the issue is whether the Petitioner has discharged the burden of proving that he belongs to the “Thakar” Scheduled Tribe.

Petitioner has relied on the Caste Validity Certificates of his paternal side relatives viz. cousin sister Jagruti and his cousin cousin uncle Tanaji.

As indicated above, the Caste Validity of Jagruti as well as Tanaji of belonging to the “Thakar” Scheduled Tribe has been granted by this Court.

14. Government of Maharashtra in exercise of powers conferred by sub Section (1) of Section 18 of The Maharashtra Scheduled Caste,

Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, has framed the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (**Said Rules**), for regulating the issuance and verification of Scheduled Tribe Certificates to the persons belonging to the Scheduled Tribes.

“Relative” as defined under Said Rules is as follows:-

Rule 2(1)(f) “Relative” means a blood relative from paternal side of the applicant;

15. Petitioner is on oath to state that Jagruti is his cousin sister and Tanaji is his cousin cousin uncle. Respondents have not rebutted the said statement. Respondent No. 2 did not find the Petitioner’s relationship with Tanaji and Jagruti disputable.

16. Rule 11(2)(d) of the Said Rules, refer to document which can be submitted with the application for verification of Schedule Tribe Certificate. Rule 11(2)(d) of the Said Rules, read as follows :

11. Verification of Schedule Tribe Certificate by Scrutiny Committee.

(1).....

(2) The applicant shall submit the following documents with his application for verification of his Scheduled Tribe Certificate :-

(a).....

(b).....

(c).....

(d) Other documents :

(i) Revenue record like, birth register, extract of

7/12, Sale Deed etc.

- (ii) Any other relevant documents in support of his Scheduled Tribe claim.
- (iii) Affidavits of the near relatives whose Validity Certificates are submitted in support of the Scheduled Tribe claim of the applicant.

17. Petitioner has relied on the affidavit dated 23.08.2012 of Jagruti Nandkumar Sarjerao. Jagruti in the said affidavit has stated that the Petitioner is her cousin brother and his caste is Thakar. She has relied on her Caste Validity Certificate along with the said affidavit.

In terms of the said Rules, affidavit/s by near relatives having Validity Certificates is one of the document which an applicant can rely under Rule 11(2)(d) of the Said Rules.

18. The impugned order refers to a per-independence document 1905 relied by the Petitioner, however, the Respondent No.2 has discarded the said document. This Court while deciding the case of Jui has considered the said document and has in paragraph 5 and 6 observed as under :

“5. The above referred discussion gives rise to a question whether only those entries which show ancestors of the Petitioner as of ‘Thakar Tribe’ should be selected or those entries which show ancestors of the Petitioner as having social status as ‘Maratha’ or ‘Hindu Thakar’ should be selected?. We are of the view that the conflict between these two sets of entries can be resolved by taking into consideration the oldest amongst them for the reason that the oldest entries have been seen by Courts, as a tool of appreciation of evidence, to be inspiring more confidence, as these entries are recorded in the distant past and having been removed from the more manipulative modern times have a greater possibility of retaining purity and presenting truth. Oldest entry as stated earlier, is of 5th June, 1905 and it shows Shambhurao Sarjerao, to be a person belonging to ‘Thakar’ Scheduled Tribe.

6. *We find that there is neither any dispute nor any doubt about the above referred oldest entry. There is, however, one more entry of the same date, the date of 5th June, 1905, standing in the name of same person, Shambhurao Sarjerao, showing him to be a person of 'Maratha' caste. But, if, we consider the Registration Book Number, we find that the second entry of conflicting nature is an entry subsequently taken. This can be seen from the Registration Books mentioned in these entries and, therefore, the first entry which we have referred to above leaves no doubt that the said person belonged to 'Thakar' Scheduled tribe. The entry subsequently taken in another book of the same date, appears to be taken by mistake and similar appears to be the nature of the other entries showing the same person and other relatives as 'Maratha' or 'Hindu Thakar' caste."*

19. To maintain consistency and adhere to the feature of administration of justice that is "like cases should be decided alike" we follow the reasoning in the case of Jagruti, Tanaji and Jui.

20. Petitioner has discharged the burden of establishing Jagruti and Tanaji being his relative from paternal side. Impugned order does not find any fault in the affidavit dated 23.08.2012 filed by Jagruti, produced and relied by the Petitioner.

21. As observed herein above, the relation of the Petitioner with Tanaji and Jagruti, is not in dispute. When the Respondent No. 2 did not find the Petitioner's relation with Tanaji and Jagruti disputable, the law laid down by this Court in ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur, [2010(6) Mh.L.J.401]*** ought to have been followed by the Respondent No.2 and it could not have ignored the Validity Certificates granted to the Paternal side relatives of the Petitioner.

22. The Hon'ble Supreme Court in the case of ***Maharashtra***

Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and others, [AIR 2023 SC 1657] has considered the sanctity and significance of the prescribed procedure in The Maharashtra Scheduled Caste, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance And Verification of) Caste Certificate Act, 2000, where the importance and significance of the vigilance cell inquiry and establishing the relationship by the claimant with those having a Caste or Tribe Certificates is specifically focused.

The Hon'ble Supreme Court has made reference to the judgment of ***Apoorva d/o Vinay Nichale (supra)*** in paragraph 6 of the aforesaid judgment.

23. The record placed before us do not indicate invalidation of the Caste Validity Certificate issued to either Tanaji or Jagruti. No material in that regard is placed before us.

24. In light of the above, position of law emerging before us, as well as considering the above said documents, we are of the opinion that the reasons assigned by the Respondent No. 2 in the impugned order in invalidating the claim of the Petitioner is erroneous and unsustainable.

25. In view of the above, the impugned order of Respondent No. 2 is hereby quash and set aside. The Respondent No. 2 is directed to

issue Thakar Scheduled Tribe Validity Certificate to the Petitioner within a period of four weeks from today.

26. Petition stands allowed in the above terms. There shall be no order as to costs.

(ASHWIN D. BHOBE, J.)

(NITIN W. SAMBRE, J.)