



IN THE HIGH COURT JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1987 OF 2009

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Dattatray Rambhau Pawar ...Petitioner

v/s.

1.The State of Maharashtra
2.The Scheduled Tribe Caste
Certificate Scrutiny Committee
3.Executive Magistrate
Indapur, District: Pune
4.Director General of Police
5.Commissioner of Police,
Thane, ...Respondents

Mr.R.K.Mendadkar for the Petitioner.
Mr.V.A.Gangal Special Counsel with
Mr.C.R.Sonawane, AGP for State.

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CORAM: D.K.DESHMUKH &
N.D.DESHPANDE, JJ.

DATED: 22nd November, 2010

P.C.:

1. By this petition the Petitioner challenges the order passed by the Scrutiny Committee dated 15-1-2009 holding that the claim of the Petitioner that he belongs to

Thakar, Schedule Tribe is not valid. The Scrutiny Committee has found that many of the entries about close relatives of the Petitioner for the period before 1950 shows that their caste is recorded as Maratha, as Thakar and as Bhat. The Scrutiny Committee has also held affinity test and has held that the Petitioner does not belong to Thakar Scheduled Tribe. So far as entries in various records about various relatives of the Petitioner are concerned, the Petitioner was relying on 12 entries relating to his relatives showing that their caste is recorded as Thakar. The Vigilance Cell has produced 29 entries in relation to other relatives of the Petitioner, which were of the period before 1950 showing that caste of some of the relatives of the Petitioner was recorded as "Maratha", some of the relatives it was "Bhat" and of some of the relatives it

was "Thakar". The learned Counsel appearing for the Petitioner produced before us a chart showing various entries made in relation to the different relatives of the Petitioner. It reads as below:

Sr. no.	Name	Relationship	Nature of document	Caste recorded	Date of Record	produced by
1	Daughter born to Rakhmaji Bapu Pawar	Cousin great grand father's daughter	Birth Extract	Thakar	1871	Applicant
2	Daughter born to Sakharam Pawar	Cousin great grand father's daughter	Birth Extract	Thakar	1881	do
3	Yesu Sakharam Pawar	Cousin great grand father's son	Death Extract	Thakar	1884	do
4	Baja Rakhmaji Pawar	Cousin great grand father's son	Death Extract	Thakar	July, 1985	do
5	Son born to Vithu Bapu Pawar	Cousin great grand father's son	Birth Extract	Thakar	1885	do
6	Son born to Rakhmaji Bapu Pawar	Cousin great grand father's son	Birth Extract	Thakar	1888	do
7	Daughter born to Vithu Bapu Pawar	Cousin great grand father's daughter	Birth Extract	Thakar	1888	do
8	Daughter born to Sakharam Bapu Pawar	Cousin great grand father's daughter	Birth Extract	Thakar	1890	do
9	Daughter born to Vithu Bapu Pawar	Cousin great grand father's daughter	Birth Extract	Thakar	1891	do
10	Daughter born to Rakhmaji Bapu Pawar	Cousin great grand father's daughter	Birth Extract	Thakar	13.7.1892	do
11	Son born to Babaji Anuba Pawar	Cousin Grand father's son	Birth Extract	Thakar	1909	do
12	Shahu Vithu	Cousin grand father	Death Extract	Marathi	13.1.1918	Vigilance cell
13	Krushna Vithu (fathers name)	Uncle	Birth Extract	Mahrathi	12.9.1918	do
14	Rama Krishna Pawar	Patemam aunt	Birth Extract	Thakar	23.5.1921	do
15	Sopan Krishan Pawar	Patemam aunt	Birth Extract	Thakar	July, 1923	do
16	Vithu Krishna Pawar	Patemam aunt	Birth Extract	Thakar	13.11.1925	do
17	Ramchandra Krishna Pawar	Father	Birth Extract	Thakar	14.8.1928	do
18	Tulsiram Vithu Pawar	Uncle	Birth Extract	Marathi	2.8.1930	Applicant
19Shripati Pawar	Cousin uncle	Birth Extract	Maratha	14.11.1930	Vigilance cell
20	Shantibai Krishna Pawar	Aunt	Birth Extract	Thakar	8.9.1932	do
21	Jaywant Shripati Pawar	Cousin uncle	Birth Extract	Marathi	24.10.1932	do
22	Vanchala Krushna Pawar	Aunt	Birth Extract	Marathi	12.12.1934	do
23	Aabai Kom Vithu Pawar	Grand mother	Death Extract	Bhat	16.3.1937	do
24	Murliidhar/ Damodar Shripati Pawar	Cousin uncle	Birth Extract	Bhat	22.6.1937	do
25	Rama Krushna Pawar	Aunt	chool leaving certifica	Maratha	4.3.1940	do
26	Vanchala Krushna Pawar	Aunt	chool leaving certifica	Maratha	4.3.1940	do
27	Tulsiram Krushna Pawar	Uncle	chool leaving certifica	Maratha	March, 1940	do
28	Yashwant Shripati Pawar	Cousin uncle	chool leaving certifica	Maratha	5.8.1941	do
29	Sonu Bapkrushna Pawar	Aunt	Death Extract	Bhat	17.10.1941	do
30	Sonabai Krishna Pawar	Aunt	Birth Extract	Marathi	31.1.1942	do
31	Jaywant Shripati Pawar	Cousin uncle	chool leaving certifica	Maratha	1.3.1944	do
32	Ghanshyam Shripati Pawar	Cousin uncle	chool leaving certifica	Maratha	10.6.1944	do
33	Sakhrabai Krushna Pawar	Aunt	chool leaving certifica	Maratha	1.7.1944	do
34	Rodya Shripati Pawar	Cousin uncle	chool leaving certifica	Maratha	3.7.1944	do
35	Muktabai Shripati Pawar	Aunt	chool leaving certifica	Maratha	2.8.1944	do
36	Tulshiram Krushna Pawar	Uncle	Death Extract	Bhat	28.12.1944	do
37	Dwarka Krushna Pawar	Aunt	School record	Hindu Marath	9.6.1947	do
38	Jaywant Shripati Pawar	Cousin uncle	School record	Hindu Thakar	1.3.1948	do
39	Sonu Krushna Pawar (name not given)	Uncle	School record	Thakar (Hindu	5.11.1948	do

2. A glance at this chart shows that if one merely goes by the entries in relation to various relatives of the Petitioner, it is impossible to record a definite conclusion about the caste of the Petitioner. These entries are, therefore, unreliable. If these entries are excluded from consideration, then there is hardly any evidence produced by the Petitioner on record to substantiate his claim. It has to be remembered that entire burden to prove that the Petitioner belongs to Thakur scheduled tribe is on the Petitioner. Apart from the above documents the Petitioner relies on the validity certificate issued by the Scrutiny Committee in favour of Shri Arun Pawar. That validity certificate was issued by the Scrutiny Committee because of the directions of the Division Bench of this Court in Writ Petition

No.2122 of 1989 decided on 30th October, 1996. Perusal of that judgment shows that this court directed issuance of validity certificate in favour of the Petitioner in that case, because the Division Bench found that in the school record of the father of the Petitioner in that case in the year 1923 an entry is made that he belongs to Thakar caste. Though it is true that this Shri.Arun Pawar is relative of the Petitioner, what was other material in relation to him is not to be found from the judgment. In our opinion, in the face of the material that is produced on record in this case, no reliance can be placed on the judgment in Arun Pawar's case referred to above. Because that judgment has turned only on one circumstance namely the entry in the record relating to the caste of the father of the Petitioner in that case. The Petitioner, thereafter, relied on two

validity certificates issued in favour two persons, who he claims to be related to him. But those validity certificates do not indicate as to what was the material on the basis of which those validity certificates were issued. If the Petitioner wanted to rely on those validity certificates, it was for the Petitioner to produce material that was produced by those persons for obtaining the validity certificate. Merely by relying on the documents of validity certificates, the Petitioner cannot claim that those validity certificates establish that he belongs to Thakar scheduled tribe. We, thus, find that the material produced by the Petitioner on record does not prove that the Petitioner belongs to Thakar scheduled tribe.

3. In our opinion, therefore, the Scrutiny Committee was fully justified in

making the order. The petition has no substance. It is dismissed. Rule discharged. No order as to costs.

(D.K.Deshmukh, J.)

(N.D.Deshpande, J.)