

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

1105 WRIT PETITION NO.11091 OF 2021

NAKUL S/O ANNASAHEB NIKAM
VERSUS
STATE OF MAHARASHTRA
THROUGH PRINCIPAL SECRETARY AND OTHERS

Advocate for Petitioner : Mr. Sagar S. Phatale.
AGP for Respondents: Mr. S. G. Karlekar.

CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.

DATE : 27th October, 2021.

PER COURT:

The caste claim of petitioner as belonging to Thakur Scheduled Tribe is invalidated.

2 The learned counsel submits that the real sister of the petitioner Priya had also applied for validity certificate of Thakur Scheduled Tribe. The same was invalidated. She filed Writ Petition No.8194 of 2019. The same was allowed by this Court under the judgment and order dated 15th July, 2019. The another paternal cousin of the petitioner namely Tanushree D/o Dilip Nikam had also applied for validity certificate. The same was invalidated. She filed Writ Petition No.13417 of 2018. The same was allowed under the judgment and order dated 8th November, 2019. The another paternal cousin of petitioner Yashraj had filed Writ Petition No.5293 of 2021.

The same was allowed on 25th March, 2021 and this Court directed the Committee to grant validity to the petitioner therein. The father of petitioner and two real sisters of petitioner are also issued with the validity certificates of Thakur Scheduled Tribe by the Committee.

3 The learned AGP submits that the petitioner has suppressed the invalidation of one Smitanjili Devidas in the year 1993 and suppressing the same, further validity certificates are obtained. The contra entries of Maratha and Bhat also exist in the record of near relatives of the petitioner. The petitioner failed in the affinity test.

4 We have considered the judgment of the Committee and the earlier orders passed by this Court.

5 It appears that the real sister of petitioner namely Priya is directed to be issued with validity certificate of Thakur Scheduled Tribe under the orders of this Court in a writ petition. So also, the cousin sister and cousin brother namely Tanushree and Abhijit are also issued with the validity certificate under the orders of this Court in writ petitions. The another cousin sister of petition Kanchan Gangadhar is also issued with validity certificate under the orders of this Court. The father of petitioner and sister of petitioner are issued with validity certificates by the Committee itself.

6 While passing the judgment in the case of real sister of petitioner Priya, the Division Bench of this Court has observed as under:

“8. The petitioner has produced on record the school record of Narayan Bajirao (T.C.) wherein it is recorded that his date of birth is 13.04.1922 and he had left the school on 01.10.1938. In the said T.C. the caste is recorded as Thakur.

9. It would also appear that the real paternal aunt of the petitioner Kum Lila is shown to have been admitted in the school in the year 1961, another paternal aunt of the petitioner Shakuntala d/o Narayan is shown to have been admitted in the school on 02.08.1957. Naturally, the date of birth of the grandfather of the petitioner has to be much earlier than 1949. All these aspects ought to have been considered by the committee.

10. Apart from this the other entries in the school record of the petitioner, his father, grandfather, paternal aunts consistently records caste as Thakur.

11. The same committee has issued validated certificate to the father of the petitioner Annasaheb so also to two real sisters Puja and Priti d/o Annasaheb. One of the paternal cousins namely Kanchan d/o Gangadhar is directed to be issued validity certificate under the orders of this Court in Writ Petition No. 3082 of 1995 dated 10.07.1995.

The real sister of Kanchan Kum. Krishna d/o Gangadhar is also issued with the validity certificate of the Thakur Scheduled Tribe.

12. Considering the validities issued to the father, two real sisters of the petitioner and also to the paternal cousin whose claim was invalidated by the committee and this Court in Writ Petition no. 3082 of 1995 under order dated 10.07.1995 has directed the committee to issue validity certificate to said Kum. Kanchan d/o Gangadhar, we are inclined to allow the petition and consider the case of the petitioner.”

7 In light of the above, we pass the following order:

ORDER

- I. The impugned order is quashed and set aside.
- II. The Committee shall issue validity certificate to the petitioner of Thakur Scheduled Tribe immediately.
- III In case the Committee reviews the orders of this Court in the writ petitions filed by the sister of petitioner Priya and other paternal relatives, then the respondents may also take further steps against the petitioner and the present order

would be subject to the decision that may be taken in case the review filed by the Committee is allowed in case of validity holders relied by the petitioner.

IV. The writ petition is disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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