



Rameshwar Dilwale

926.wp.13567.22.odt

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13567 OF 2022**

Syamal Subhash Suryawanshi

....Petitioner

Versus

State of Maharashtra and Ors.

....Respondents

Mr. Kalpesh S. Patil, for the Petitioner.

Mrs. S.S Bhende, AGP for Respondent – State.

Mr. Sameer Khedekar, for the Respondent No. 3

**CORAM : S. V. GANGAPURWALA &
S. G. DIGE, JJ.**

DATE : 16th NOVEMBER, 2022.

P.C. :

1. In the normal course, we would not have entertained the writ petition at the principal seat. However, considering that tomorrow is the last date for submission of validity, we have entertained the petition.

2. The claim of the petitioner has belonging to Thakur Scheduled Tribe is invalidated. The learned counsel submits that not a single contra entry is found by the vigilance. Babulal Shankar Suryawanshi is not the paternal relative of the petitioner, nor in the genealogy, the said could be established by the vigilance. According to the learned counsel, the father of the petitioner is issued with the Validity Certificate of the Thakur Scheduled Tribe. The learned counsel relied on the judgment of the

Division Bench of this court in the case of **Apoorva Vinay Nichale Vs. Divisional Caste Scrutiny Committee, 2010 (6) Mh.L.J. 401.** The learned counsel further submits that the affinity test is not the litmus test. Reliance is placed on the judgment of the Apex Court in case of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claim (2012) 1 SCC 113.**

3. The learned AGP submits that the petitioner has failed in the affinity test. The petitioner does not belong to the area where normally the Thakur Scheduled Tribe persons reside.

4. We have gone through the judgment, the following documents are relied upon by the petitioner :

शाळेचे नांव	दस्तऐवज धारकाचे नाव	अर्जदाराशी नाते	जातीची नोंद	प्रवेश दिनांक
शालेय पुरावा	सुभद्रा नामदेव सुर्यवंशी	आजी	ठाकूर	०१.०६. १९३९
शालेय पुरावा	मुरलीधर नामदेव सुर्यवंशी	आजोबा	ठाकूर	१०.०६. १९४०
शालेय पुरावा	सुधाकर नामदेव सुर्यवंशी	चुलत आजोबा	ठाकूर	०९.०६. १९५३
शालेय पुरावा	बाबूलाल शंकर सुर्यवंशी	कुळातील नातेवाईक (Clan Relatives)	हिंदू क्षत्रिय ब्रम्हभट	०९.०६. १९५३
शालेय पुरावा	सुभाष मुरलीधर सुर्यवंशी	वडील	ठाकूर	१२.०७. १९७२
शालेय पुरावा	श्यामल सुभाष सुर्यवंशी	अर्जदार	ठाकूर	०२.०५. २०१६

5. The vigilance has been conducted and the vigilance has not

found any interpolation in the said documents. The document at serial no. 4 of the aforesaid chart is not in respect of the paternal relative of the petitioner. The grand-father's school record of the year 1940, the school record of the petitioner's cousin Grand-father of the year 1953 and the school record of father of the petitioner of 1972 records caste as Thakur.

6. In light of the above, we pass the following orders.
 - i. The impugned order is set aside.
 - ii. The committee shall issue validity certificate to the petitioner of Thakur Scheduled Tribe immediately.
7. The writ petition is disposed of. No costs.

(S. G. DIGE, J.)

(S. V. GANGAPURWALA, J.)