



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

Writ Petition No. 2346 of 2020

Jitendra s/o Arun More ... Petitioner  
v/s.  
The State of Maharashtra & anr. ... Respondents

Mr. Sushant C. Yeramwar, Advocate for the Petitioner.  
Mr. V.M. Mali, AGP for the State.

CORAM : S.V. Gangapurwala &  
R.N.Laddha, JJ.

18<sup>th</sup> October 2022

P.C.

Rule. Rule made returnable forthwith. By consent of the parties, heard finally.

2. The caste claim of the Petitioner as belonging to Thakar-Scheduled Tribe is invalidated.

3. We have heard the learned Counsel for the Petitioner and learned AGP for the State. The learned Counsel for the Petitioner submits that father of the Petitioner is issued with validity certificate of Thakar-Scheduled Tribe. The real sister of the Petitioner is also issued

Thakar-Schedule Tribe by the Committee. The oldest entry is of the year 1933 i.e. the school record of Chandrabai – the sister of the Petitioner's real grand father. The birth record of Petitioner's father of the year 1957 also records caste as Thakar. Contra entry of Maratha was subject matter of consideration when the validity was issued to father of the Petitioner. The Committee in its judgment while granting validity to the father of the Petitioner has considered the contra entry in the school record of father of the Petitioner, however, the record of the father of the Petitioner recording caste as Thakar was also considered so also the oldest entry of the year 1933 was the subject matter of consideration by the Committee while issuing validity to the father of the Petitioner. The learned Counsel submits that it is not a case of suppression of any documents. The learned Counsel relies on the judgment of this Court in case of *Apoorva v/s. Divisional Caste Certificate Scrutiny Committee No.1*<sup>1</sup>.

4. The learned AGP submits that the contra entry of Maratha is appearing in the school record of father of the Petitioner. Even two contra entries appear in the school record of two aunts of the Petitioner. No explanation is coming from the Petitioner with regard to contra entries. The Petitioner also failed in Affinity Test.

5. The learned Counsel for the Petitioner relying upon the

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1 2010(6) Mh.L.J.401

judgment of Apex Court in case of *Anand Katole vs. Committee for Scrutiny and Verification of Tribe Claim*<sup>2</sup> submits that Affinity Test is not litmus test.

6. We have considered the submissions so also gone through the judgments and the documents.

7. It is not disputed that father of the Petitioner is issued with the validity certificate of Thakar-Scheduled Tribe after conducting vigilance. The real sister of the Petitioner is also issued with validity certificate by the same Committee.

8. The School record of the father of the Petitioner records caste as Maratha. While issuing validity to the father of the Petitioner the said entry in the school record of the father of the Petitioner was a subject matter of consideration by the Committee. The Committee considered the oldest entry i.e. the entry of caste in the birth register maintained by the competent authority recording caste as Thakar in the year 1957. The grand-father's real sister Chandrabai's school record also records caste as Hindu Thakar. The same is the oldest entry. The pre-constitutional document has a more probate value.

9. The contra entries relied by the Committee while invalidating

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<sup>2</sup> 2012 (1) SCC 113

the claim of the Petitioner were subject matter of consideration when father was issued with the validity certificate. The validity certificate issued to the father and sister would be relevant fact. Reliance can be placed on the judgment of Division Bench of this Court in the case of *Apoorva (supra)*.

10. In the light of above, the impugned judgment is quashed and set aside. The Committee shall issue validity certificate to the Petitioner of Thakar-Scheduled Tribe immediately.

11. Rule is accordingly made absolute. No costs.

(R.N.Laddha, J)

(S.V.Gangapurwala, J)

Lata Panjwani, P.S.