



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.7500 of 2022**

Rahul S/o. Ramesh Shinde

....Petitioner

**Versus**

The State of Maharashtra and ors.

....Respondents

Mr. Sushant C. Yeramwar, Advocate for the Petitioner.  
Mrs. S. S. Bhende, AGP for the State.

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

**DATE : 16<sup>th</sup> NOVEMBER, 2022.**

**P.C. :**

1. The caste claim of the petitioner as belonging to “Thakar” Scheduled Tribe is invalidated.

2. It is the contention of the learned counsel for the petitioner that the Caste Scrutiny Committee (for short “the committee”) without considering the documentary evidence since pre-independence period invalidated the tribe claim of the petitioner as belonging to “Thakar” Scheduled Tribe. Learned counsel for the petitioner further submits that the oldest documentary evidence since the year 1919 shows the caste status of the petitioner’s

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relatives as Thakar which has a great probative value. In the oldest documentary evidence submitted by the petitioner before the vigilance enquiry officer, in the said inquiry, the said document was found to be correct and genuine showing the caste status as “Thakar” but the Committee has discarded the said documentary evidence on flimsy grounds which is not legal and proper.

3. Learned counsel for the petitioner further submits that the entry in respect of Suryabhan Babu Shinde showed the date of birth as 16<sup>th</sup> February, 1944 and caste as “Maratha Thakar”. The Committee ought to have considered that there is no such caste and it is an obvious mistake of the school authority to record such caste instead of “Thakar”. Hence, the said entry ought not to have been considered contra.

4. Learned counsel for the petitioner further submits that the Committee ought to have considered the school record of paternal relatives of the petitioner since 1928 showing the caste status as “Thakar” in its proper perspective, but it was not considered, hence requested to allow the writ petition.

5. It is the contention of the learned AGP that the petitioner has failed in the affinity test. There are contra entries in the documents of the petitioner's relatives submitted by the petitioner. The order passed by the committee is legal and valid.

6. We have considered the submissions of both the parties. We have also gone through the judgment delivered by the Committee.

7. The petitioner has relied on the following documents :

शालेय नोंदी :-

शाळेचे नाव :- जि.प. प्राथ केंद्र शाळा कोर्टी, ता.करमाळा, जि. सोलापूर

अ.क्र.	रजि.नं	विद्यार्थ्याचे नाव	जात पोटा जात	जन्म स्थळ	जन्मतारीख	प्रवेश तारीख	अर्जदाराशी नाते	शेरा
१	१५०/१	बाबु शिवमुर्ती ठाकर	मराठा	—	२/१/१९२१	५/५/२६	चुलत अजोबा	खाडाखोड नाही
२	५९/२	रामू शिवमुर्ती ठाकर	हिंदू ठाकर	कंदर	१६/११/१९२८	—	अजोबा	खाडाखोड नाही
३	२०२/१	श्रीकृष्ण बाबूराव शिंदे	हिंदू ठाकर	कंदर	३/११/१९४८	३/७/१९५६	चुलत चुलते	
४	९६/१	सूर्यभान बाबू शिंदे	मराठा ठाकर	कंदर	१६/२/१९४४	—	चुलत चुलते	रजि.जीर्ण दाखल दिनांक मिळून येत नाही
५	२१४	विठ्ठल रामचंद्र शिंदे	हिंदू ठाकर	कंदर	१/६/१९५६	६/७/१९६४	चुलते	खाडाखोड नाही
६	४६४/३	धन्वतरी रामू शिंदे	हिंदू ठाकर	कंदर	१/६/१९६१	२८/७/१९६७	आत्या	खाडाखोड नाही
७	२१७/३	विष्णू बजरंग शिंदे	हिंदू ठाकर	कंदर	१/६/१९५८	६/७/१९६४	चुलत चुलते	खाडाखोड नाही
८	५६३/३	छाया बजरंग शिंदे	हिंदू बिगर मागास	कंदर	१/६/१९६४	४/३/१९७०	चुलत आत्या	खाडाखोड नाही

**जन्मनोंदी :-**

अ.क्र.	जन्मतारीख	पु	स्त्री	नांव	वडिलांचे व आजोबांचे नाव	जात	उमेवाराशी नाते
१	२१/२/१९	१	—	नेवती	शीवमूर्ती राघू ठाकर (मराठी)	ठाकर	चुलत चुलत आजोबा
२	२०/५/४५	१	—	सुरेभान	बाबू शेमूर्ती ठाकर	ठाकर	चुलत चुलत चुलते
३	१/१/४९	१	—	कृष्णा	बाबू शेमूर्ती ठाकर	ठाकर	चुलत चुलत चुलते

The above chart shows that the oldest entry is of the year 1919. The petitioner's 2<sup>nd</sup> cousin grandfather – Shivmurthi Raghu Thakar's caste is mentioned as Thakar. The petitioner's grandfather - Ramu Shivmurthi Thakar's caste against the birth entry dated 16<sup>th</sup> November, 1928 is shown as Thakar. There are other entries of pre-independence era showing caste as Thakar. There are contra entries showing the caste as Maratha, Maratha Thakar. Maratha Thakar cannot be considered as a separate caste. It indicates a language or residence of a particular area, in the remark of this document, it is nowhere mentioned that the document was interpolated. There are oldest entries of pre-independence era which shows the caste of the petitioner's relatives as "Thakar" but these facts were not considered by the Committee. The affinity test is not litmus test as held by the Hon'ble Apex Court in the case of **Anand versus Committee for Scrutiny and Verification of Tribe Claims and ors. (2012) 1 SCC 113.**

8. In view of the above, we pass the following order :

1. The impugned judgment is quashed and set-aside.
2. The Committee shall issue the validity certificate to the petitioner of "Thakar" Scheduled Tribe.

The writ petition is disposed of. No costs.

(S. G. DIGE, J.)

(S. V. GANGAPURWALA, J.)