



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6464 OF 2022

Mandabai d/o Vishnu Gaikwad

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

WITH

WRIT PETITION NO.8739 OF 2022

Sangitabai D/O Vishnu Gaikwad

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

...

Mr. Sushant C. Yeramwar for the Petitioners.

Mr. M.M. Pabale, AGP for Respondent-State.

**CORAM: S.V. GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED: MARCH 1, 2023.

P. C. :-

1. Rule. Rule is made returnable forthwith. With consent of the parties, matter is heard finally.

2. The Petitioners in both the petitions are real sisters. They had submitted proposal for validation of caste certificates of caste - Thakar scheduled tribe. Same is invalidated. Mr. Sushant Yeramwar, learned counsel for the Petitioners submits that 6 paternal relatives of

the Petitioners were issued the certificate of Thakar scheduled Tribe. Relationship of the Petitioners with these relatives is cousins, validity of which is not disputed by the Committee. The contra entries, which are shown are not shown in respect of the paternal relatives of the Petitioners and the same is confirmed by the Vigilance squad in its report. Reasons for not considering the validity of the caste certificates of the cousins is not discussed. Learned counsel for the Petitioners has relied upon the decision of the Division Bench of this Court in *Apoorva d/o Vinay Nichale vs. Divisional Caste Scrutiny Committee and Ors., 2010 (6) Mh.L.J. 401*.

3. Learned AGP submits that the validity reports in respect of the paternal relatives of the Petitioners were issued without making a thorough enquiry. Same has been considered by the Committee. The Petitioners have failed in affinity test.

4. Upon perusal of the judgment of the Committee, it appears that one of reasons for rejection of validity is failure of the Petitioners in affinity test.

5. The Division Bench of this Court in *Apoorva* (supra) has

observed that validity certificate issued to the paternal relatives is a relevant fact. In *Anand vs. Committee for Scrutiny and Verification of Tribe Claim, (2012) 1 SCC 113* the Apex Court has held that the affinity test is not the litmus test. In the present case, pre-constitutional documents of the paternal cousins of the Petitioners are of the year 1932, which records caste of Thakar. So also in the school records of real uncles of the Petitioners pertaining to the year 1933 caste is recorded as Thakar. Birth extracts of the Petitioners' father also records the caste as Thakar. Not a single contra entry is pointed out in respect of the Petitioners' forefathers or paternal relatives.

6. In the light of the above, the impugned judgments are quashed and set aside. The Committee shall issue the validity certificate of Thakar Scheduled Tribe to the Petitioners immediately.

7. Writ Petitions stand allowed. Rule is made absolute. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)