



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3409 OF 2019**

Subhash Shivaji Shinde ... Petitioner.
Vs.
The State of Maharashtra and ors. ... Respondents.

Mr. R.K. Mendadkar for the Petitioner.
Ms A.A. Purav, AGP for the Respondent Nos.1 to3.

**CORAM : PRASANNA B. VARALE &
N.R. BORKAR, J.J.**
DATED : 08.09.2021.

P.C.

1. This petition takes an exception to the order passed by the respondent No.2 - Schedule Tribe Certificate Scrutiny Committee, Pune dated 20.2.2019.

2. The petitioner claims to be belonging to caste Thakar which is recognised as Scheduled Tribe (for short "ST"). The petitioner was granted Caste Certificate of caste Thakar by the competent authority. On the basis of said caste Certificate, the petitioner was appointed on the post of Assistant Engineer against the vacancy reserved for ST category. After appointment, the caste claim of the petitioner was forwarded to respondent No.2 for verification. The respondent No.2 on receipt of the caste claim of the petitioner got conducted necessary enquiry through its vigilance cell.

3. During the course of enquiry, the caste of the forefathers of the petitioner in pre-constitution period

documents was found to be Kunbi, Maratha and Marathi. The copy of the report was thus served upon the petitioner and he was called upon to submit his reply in that respect. The petitioner accordingly, submitted his reply. The petitioner in his reply stated that the caste entries as Kunbi, Maratha, Marathi were not made by his forefathers, but were made by Kotwal of concerned village without ascertaining the ground reality and requested the respondent No.2 to ignore these caste entries. The petitioner has further stated that there is no caste as Marathi and it is language which would show that the record was not maintained meticulously.

4. The petitioner was then called for hearing. The respondent No.2, after hearing the petitioner and on the basis of materials before it, invalidated the caste claim of the petitioner and cancelled the caste certificate issued in favour of the petitioner, by order impugned.

5. We have heard the learned counsel for the petitioner and learned AGP for respondent Nos. 1 to 3.

6. The learned counsel for the petitioner submits that respondent No.2 has not at all considered the pre-constitution period documents filed by the petitioner of his blood relatives showing their caste as Thakar. It is submitted that admittedly, the Caste Validity Certificates of blood relatives of the petitioner were filed before respondent No.2. It is submitted that respondent No.2 discarded the said Certificates in most perfunctory manner. The learned counsel for the petitioner

submits that after the rejection of caste claim by respondent No.2, the petitioner came across few more pre-constitution period documents, wherein the caste of his forefather is recorded as Thakar. It is submitted that the petitioner thus be granted an opportunity to produce the said documents before respondent No.2 and for that purpose the matter be remanded back to respondent No.2.

7. On the other hand, the learned AGP for the respondents submits that during the course of enquiry by vigilance cell, the caste of forefathers of the petitioner in pre-constitution period documents was found to be either "Kunbi" or "Maratha". It is submitted that the petitioner has not disputed the genuineness of the said entries. The learned AGP further submits that during the course of enquiry the questions were asked to the family members of the petitioner in relation to customs and rituals in their family and they were found to be not resembling with customs and rituals prevalent in the Thakar tribe. As regards the Caste Validity Certificates issued in favour of blood relatives of the petitioner, it is submitted that the said caste Certificates were obtained by misrepresentation and thus respondent No.2 has decided to initiate an independent proceedings to cancel the said certificates. It is submitted that there is no merit in the petition and the same may be dismissed.

8. We have perused the impugned order, the vigilance cell report and the reply filed by the petitioner to the vigilance cell report. Perusal of the vigilance cell report reveals that the

school, home and other enquiry was conducted and during the course of said enquiry, the caste of great grandfather of the petitioner in pre-constitution period document dated 27.2.1902 was found to be recorded as "Kunbi". Similarly, the caste of grandfather of the petitioner in document dated 13.10.1925 was found to be recorded as "Marathi". Apart from it in school record, the caste of one of blood relatives of the petitioner namely, Eknath Raghu Shinde was found to be recorded as "Maratha".

9. The petitioner in his reply has not disputed the genuineness of the said entries. The only contention of the petitioner in his reply is that the said entries were not made by his forefathers, but were made by Kotwal without ascertaining the ground reality. It is difficult to accept this contention in absence of any supporting material in that respect. Even otherwise, the said contention cannot be accepted at least in respect of school record.

10. It further appears that during the course of enquiry certain questions were asked to the family members of the petitioner in relation to the rituals and customs in their family and they were found not resembling with the rituals and customs prevalent in Thakar tribe.

11. Apart from above in most of the documents, the caste of blood relatives of the petitioner is mentioned as "Hindu Thakar" and not "Thakar". Considering the overall facts and circumstances, no fault can be found with the order of

respondent No.2. We are also not inclined to remand the matter back to respondent No.2, in view of the pre-constitution period documents of great grandfather and grandfather of the petitioner in which their caste is recorded as “Kunbi” and “Marathi”. As regards the submission of learned counsel for the petitioner that “Marathi” is a language and not the caste, we find it to be inadvertent mistake and instead of recording “Maratha”, the concerned authority appears to have recorded it as “Marathi”. In the result the following order is passed.

ORDER

- 1] Writ Petition stands dismissed.

- 2] At this stage, Mr. Mendadkar, learned counsel for the petitioner, submitted that the petitioner is in government service. The services of the petitioner be protected for four weeks as he wish to challenge the order before Hon’ble Supreme Court. At the request of the learned counsel for the petitioner, for four weeks only, the respondents shall not pass any adverse order in relation to services of the petitioner due to dismissal of his petition by this court.

(N.R. BORKAR, J.)

(PRASANNA B. VARALE,J.)