



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 434 OF 2016**

PRAVIN
DASHARATH
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Yogesh Macchindra More

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

**WITH
WRIT PETITION NO. 4941 OF 2022**

Ranjit Dadosa More

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

Mr. Niranjan Shimp for petitioner in WP/434/2016.
Mr. R. K. Mendadkar for petitioner in WP/4941/2022.
Mr. B. V. Samant, AGP for State in both the matters.

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

DATE: MARCH 28, 2023

P.C.:

- 1.** Rule. Rule made returnable forthwith. By consent of parties, taken up for final disposal.
- 2.** The caste claim of the petitioners as belonging to Thakar, Scheduled Tribe, is invalidated. Aggrieved thereby, the present writ petitions.
- 3.** The petitioners in both the writ petitions claim to be belonging to same family.
- 4.** We have considered the genealogy in both the matters and

also the stand of the respondents. It does not appear that the relationship is disputed. The petitioners belong to the same family. The documents relied on are also same in both the matters.

5. The petitioners also relied upon the validity certificate issued to Gurudatta Gorakhnath More who is the son of the real uncle of petitioner Yogesh and paternal cousin of petitioner Ranjit.

6. The following documents have been relied upon by the petitioners to substantiate their caste claim as Thakar, Scheduled Tribe: -

अ) शालेय नोंदी:-

अ. क्र.	विद्यार्थ्याचे नांव	जात पोट जात	दाखल तारीख	अर्जदाराशी नाते
१	महादेव नारायण मोरे	हिंदू (ठाकर)	१५/६/१९५३	चुलते
२	महादेव नारायण मोरे	मराठा (ठाकर)	—/६/१९५३	चुलते
३	मुक्ताबाई नारायण मोरे	हिंदू ठाकर	—	आत्या
४	गोरखनाथ नारायण मोरे	हिंदू — ठाकर	७/७/१९५९	चुलते
५	कु. सुमन नारायण मोरे	हिंदू मराठा	—	आत्या
६	मच्छिंद्र नारायण मोरे	हिंदू ठाकर	२०/६/१९६७	वडिल
७	दादासो लक्ष्मण मोरे	हिंदू ठाकर	१५/६/१९७०	चुलते
८	—	—	—	—
९	—	—	—	—
१०	कु. नुतन महादेव मोरे	हिंदू ठाकर	२०/६/१९७७	चुलत बहिण
११	विजयकुमार लक्ष्मण मोरे	हिंदू ठाकर	२९/६/१९७७	चुलत चुलते
१२	योगेश मच्छिंद्र मोरे	हिंदू ठाकर	९/७/१९९०	अर्जदार
१३	कु. योगिता मच्छिंद्र मोरे	हिंदू ठाकर	२१/६/१९९३	बहिण
१४	कु. रूपाली मच्छिंद्र मोरे	हिंदू ठाकर	४/६/१९९६	बहिण
१५	किरण दादासो मोरे	हिंदू ठाकर	१५/७/१९९७	चुलत भाऊ
१६	महेश मच्छिंद्र मोरे	हिंदू ठाकर	१/६/२०००	भाऊ
१७	स्वप्नाली दादासो मोरे	हिंदू ठाकर	१/६/२०००	चुलत बहिण

ब) जन्मनोंदी

अ. क्र.	जन्मतारीख	वडिलांचे व आजोबांचे नांव	जात	अर्जदाराशी नाते
३	१७/१/२०१५(१९१५)	रावबा रामा मोरे	ठाकर	चुलत आजोबा
१	१/३/१९१७	रावबा रामा मोरे	ठाकर	आजोबा

४	२५/३/१९४७	महादेव नारायण रावबा मोरे	भाट	चुलते
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7. According to the learned AGP the birth record of Mahadeo Narayan Ravba More, uncle of the petitioner Yogesh dated 25th March, 1947 records caste as "Bhat". The same is contra entry. Earlier the petitioners have not shown Mahadeo to be their relative. So also, in the school record of Mahadeo earlier caste was recorded as "Maratha" and Thakar is introduced subsequently. According to the learned AGP this anomaly would substantiate that the petitioners do not belong to Thakar, Scheduled Tribe. It is further submitted by the learned AGP that the paternal relative is issued with the validity certificate in the year 2003. At that time vigilance was not scrupulously conducted.

8. Except one contra entry on record as Bhat in the birth certificate of Mahadeo, all other documents record caste as "Thakar" in the school records of the paternal relative of the petitioners. One document of 1917 is also relied upon by the petitioners recording caste as "Thakar" of Ravba Rama More, the grandfather of the petitioners. According to the learned AGP earlier entry was in Marathi. The same has been scored and Thakar has been recorded.

9. It is further contended that in the case of petitioner Ranjit, the petitioner had produced the document of the year 1915 of one Ravba i.e. birth record wherein caste is recorded as "Thakar". The

same is also verified by the vigilance and the said entry has been approved to be correct.

10. It would appear that consistently, even pre-independence documents, record caste as Thakar, Scheduled Tribe. The same will have probative value. It has been held by the Apex Court in the recent judgment dated 24th March, 2023 in the case of **Mah. Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra & Ors.** (Civil Appeal No. 2502 of 2022) that the affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of correctness of a caste or tribe claim in every case.

11. The Committee also relied on documents of one Chandrakant Narayan More and Suryaji Narayan More wherein caste is recorded as "Maratha" in the school record. The petitioners denied their relationship with Chandrakant and Suryaji. Upon being confronted, the learned AGP could not substantiate the relationship of these persons with the petitioners in the genealogy. These persons have no relation with the petitioners.

12. In the light of the consistent documentary evidence, the impugned judgments are quashed and set aside. The Committee shall issue validity certificates to the petitioners as "Thakar, Scheduled Tribe within fifteen (15) days.

13. Rule is accordingly made absolute. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)