

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

1026 WRIT PETITION NO.9334 OF 2019

**HARSHADA BHIMSING THAKUR TROUGH FATHER BHIMSING
CHANDARSING THAKUR**

VERSUS

THE STATE OF MAHARASHTRA AD OTHERS

...

Advocate for Petitioners : Yeramwar Sushant C.

AGP for Respondents: P.S.Patil

Advocate for Respondents : Karlekar Sujeet G. For R No. 3

**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 02/08/2019

PER COURT :

The tribe claim of the petitioner as Thakur (Scheduled Tribe) is invalidated.

2] Mr.Yeramwar, learned advocate for the petitioner submits that right from the year 1918, in the school record and the birth registers of the petitioner's grand father, his father's sister, paternal aunt, father, cousin brother and the petitioner, the caste is recorded as Thakur. According to the learned counsel the old entry is dated 5/4/1918 of the petitioner's grand father's real sister viz. Mulkan. The entry of another sister of petitioner's grand father Tanki of the year 1928 recorded caste as Thakur. The birth record of the petitioner's grand father dated 3/5/1925 records caste as Thakur. The school record of the petitioner's father, the petitioner and her cousin brother records caste as Thakur. The committee has relied upon the two

entries in the school record of petitioner's mother's cousin grand father. The maternal relationship may not be of much relevance for determining the validity. According to the learned counsel the entries in the school record and the birth register consistently record caste as Thakur.

3] The learned AGP submits that the petitioner has failed in the affinity test. The school record of the petitioner's mother's cousin grand father of the years 1926 and 1932 records caste as Bramha Bhat. These are the contra entries. In view of that the affinity test would become relevant and important. The committee has decided to reopen the validation proceedings of the real paternal aunt of the petitioner.

4] The relationship as claimed by the petitioner is not disputed. It is also not disputed that the real cousin Yogesh is issued with validity certificate by the committee. The vigilance has found all these entries referred from the year 1918 by the petitioner to be appearing in the record and that there is no interpolation. Considering the validity granted to the real paternal cousin and declaration in favour of second paternal cousin Darbarsing, we pass the following order:

[I] The impugned judgment and order is quashed and set aside.

[II] The committee shall issue validity certificate to the petitioner of Thakur (S.T.) immediately. The same shall be subject to the decision that would be taken by the committee in case the committee reopens the proceeding of Yogesh. In case the validity granted to Yogesh is cancelled, the petitioner will not be entitled to claim any equity.

4] Writ Petition is accordingly disposed of. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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