

(2024) 07 BOM CK 0035
In the Bombay High Court
Case No : Writ Petition No. 1930 Of 2024

Kalpana Dnyaneshwar Ingle

APPELLANT

Vs

Schedule Tribe Caste Certificate Scrutiny Committee,
Yavatmal And Others

RESPONDENT

Date of Decision : 02-07-2024

Acts Referred:

Citation : (2024) 07 BOM CK 0035

Hon'ble Judges : Nitin W. Sambre, J; Abhay J. Mantri, J

Bench : Division Bench

Advocate : A. P. Kalmegh, N. P. Mehta

Final Decision : Dismissed

Judgement

Nitin W. Sambre, J

1. Rule. Rule made returnable forthwith. Heard finally with consent of learned counsel for the parties.
2. The challenge in the petition is to the order dated 27/02/2024 passed by the respondent No.1-Scrutiny Committee invalidating the claim of the petitioner of belonging to 'Thakur' Scheduled Tribe.
3. The petitioner secured a caste-certificate dated 27/12/2004 from the office of the Sub-Divisional Officer, Washim certifying that the petitioner belongs to 'Thakur' Scheduled Tribe. Subsequently based on said certificate the petitioner availed the opportunity of getting public employment.
4. As a sequel of above, the petitioner was granted appointment on a post which was reserved for Scheduled Tribe category. However, such appointment was subject to submission of validity certificate.
5. In support of the tribe-claim, the petitioner placed reliance on the oldest document of 01/03/1914 in the form of birth extract in respect of her great great grand-father. Entries in birth register dated 01/02/1931 and the school extract

dated 17/06/1938 in relation to Datta Tukaram grand-father of the petitioner also depict entry 'Thakur'. The petitioner has also produced the document of 1963 having entry 'Thakur' in relation to Dnyaneshwar Dattatray Ingle, father of the petitioner.

6. It appears that the Scrutiny Committee thereafter proceeded to evaluate the claim of the petitioner and has noted that the petitioner has failed to establish the claim based on not only the documentary evidence but also failure to clear the affinity test.

7. Shri A. P. Kalmegh, learned counsel appearing for the petitioner has relied on the family tree reflected at page 53 of the petition i.e. the affidavit submitted by the petitioner to the Scrutiny Committee. According to him, other relative of the petitioner viz. Bhagwat Dattatray Ingle who happened to be real uncle of the petitioner is granted validity certificate of belonging to 'Thakur' Scheduled Tribe on 19/04/2003 which is produced at page 57. Similarly, another relative viz. Shantanu Bhagwat Ingle, cousin brother of the petitioner is granted validity of belonging to 'Thakur' Scheduled Tribe vide Certificate No.186829 on 25/09/2023. Apart from above, the validity certificate issued in favour of Ajay Bhagwat Ingle, another cousin brother of the petitioner on 29/06/2019 is also relied on.

9. It appears that the Scrutiny Committee has brushed aside these validity certificates issued to the blood relatives of the petitioner without giving any substantial reasons. It appears that on similar lines in earlier round of litigation, the order of the Scrutiny Committee ignoring the validity certificate issued to blood relative Shantanu Bhagwat Ingle was set aside in Writ Petition No.5083/2023 (Shantanu Bhagwat Ingle vs. State Common Entrance Test Cell and anr.) decided on 15/09/2023.

10. In the aforesaid background there is enough evidence on record to infer that the petitioner has established that her blood relations are not only holding validity but this Court has also granted a declaration in favour of Shantanu Bhagwat Ingle, cousin brother of the petitioner vide order dated 15/09/2023 in aforesaid writ petition that he belongs to 'Thakur' Scheduled Tribe.

11. As far as the aforesaid documentary evidence is concerned, the Scrutiny Committee at no point of time questioned those documents in respect of validity being granted in favour of blood relations of the petitioner.

12. Having regard to the law laid down by the Division Bench of this Court in Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and ors. 2010 (6) Mh.L.J. 401, in our opinion Shri A. P. Kalmegh, the learned counsel for the petitioner is justified in claiming that the petitioner is entitled to declaration that she belongs to 'Thakur' Scheduled Tribe.

13. For the reasons referred herein above, we are of the view that the order impugned is not sustainable. The Scrutiny Committee in ignorance of the validity certificates issued in favour of blood relatives ought not to have rejected the

claim of the petitioner for issuance of validity. As such the following order is passed :

(a) The order dated 27/02/2024 passed by respondent No.1-Scrutiny Committee is set aside.

(b) It is declared that the petitioner has proved that she belongs to 'Thakur' Scheduled Tribe.

(c) The respondent-Scrutiny Committee is directed to issue validity certificate to the petitioner in any case within a period of four weeks from today.

14. Rule is made absolute in aforesaid terms with no order as to costs.