
(2019) 10 BOM CK 0008
In the Bombay High Court
Case No : Writ Petition No. 5009 Of 2015

Ruta Ramesh Gangavane

APPELLANT

Vs

State Of Maharashtra And Ors

RESPONDENT

Date of Decision : 04-10-2019

Acts Referred:

Citation : (2019) 10 BOM CK 0008

Hon'ble Judges : Pradeep Nandrajog, CJ; Bharati Dangre, J

Bench : Division Bench

Advocate : Sushant C. Yeramwar, M.M. Pabale

Final Decision : Dismissed

Judgement

Bharati Dangre, J

1. Rule. Rule returnable forthwith. Heard finally by consent of the parties.
2. The petitioner, who has obtained a caste certificate on 7th September 2001 as belonging to Thakar, a Tribe recognized as Scheduled Tribe, is aggrieved by the order passed by the Respondent No.2 - Scheduled Tribe Certificate Scrutiny Committee, on 23rd March 2015 thereby invalidating the caste certificate. The petitioner is presently working on the post of Assistant Teacher in the School run by the Zilla Parishad and allege that inspite of remand of the matter by this Court, to be decided in light of the directives issued in case of Madhuri Nitin Jadhav Vs. State of Maharashtra 2014(4) BCR, 753, the Committee has invalidated the claim of the petitioner on erroneous grounds and without taking into consideration the settled legal position as regards the Thakur/Thakar, Scheduled Tribe.
3. The petitioner has placed on record an additional affidavit dated 12th June 2019. Along with the said affidavit she has placed on record the copy of the Vigilance Cell which has conducted the home inquiry and has also brought on record the genealogy tree. Along with the affidavit, the petitioner has also

brought on record the fact that two of her blood relatives i.e. Yugandhara Vasant Gangavane and Sujit Suresh Gangavane belonging to the other branch of Gangavane family and who are clearly traced to be the blood relations of the petitioner are declared by this Court to be belonging to Thakar Scheduled Tribe which finds place at Entry No.44 of the Scheduled Tribe Order 1950. Copies of the judgments delivered by this Court in Writ Petition No.5171 of 2015 (Yugandhara Vasant Gangavane dated 10th November 2017 and Writ Petition No.299 of 2008 (Sujit Suresh Gangavane Vs. State of Maharashtra) are placed on record along with the said affidavit.

4. By the exhaustive reasoning recorded in the said judgments, the two petitioners were declared to be belonging to Thakar Scheduled Tribe and the decision of the Committee, in ignorance of the documents of the pre-independence period has been frowned upon and the Writ Petitions came to be allowed.

5. Though we could have examined the impugned orders passed by the Committee, we refrain ourselves from doing so with the hope and expectation that this Court has devoted sufficient time in deciding the two writ petitions after thoroughly examining the documents placed on record by the petitioners. The Vigilance Cell report was also perused and a finding is recorded that the approach of the Committee is highly erroneous since it has failed to consider the claim in light of the material brought on record by the claimants. The over emphasis on the affinity test also did not favour with the Court in light of the documents of pre-independence period and carrying great probative value. In light of the aforesaid two judgments, we expect the respondent no.2 Committee to reconsider its decision in case of the present petitioner and since the Committee now has an advantage of the reasoning in setting aside its order in respect of the blood relations of the petitioner, we can only hope that the Committee would feel guided by the said decision and would rectify the error committed by it in passing the impugned order.

6. In view of the aforesaid position emerging in the present petition, we quash and set aside the impugned order and remand the claim of the petitioner to the respondent no.2 Committee for reconsideration in light of the decision of this Court in Writ Petition No.3299 of 20087 and Writ Petition No.5171 of 2015 and the subsequent issuance of validity certificate in favour of the petitioners therein.

7. The Committee is directed to decide the claim of the petitioner within a period of three months. During the pendency of the petition, we direct that the respondent no.2 will not take any coercive action against the petitioner in relation to her employment.

Rule is accordingly made absolute.