



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 5240 OF 2023

1. Chetan s/o Ramkrishna Thakur,
Age 39 years, Occu. Service,

2. Chaitali d/o Ramkrishna Thakur,
Age 35 years, Occu. Service,

Ordinary residents of village – Waghode,
Tq.Raver, Dist. Jalgaon.

Presently residing at -

Flat No.102/801, GENESIS Society,
Near Dighe Police Station, Alandi Road,
Wadmukhwadi, Charoli, Pune-412105,
Tq. & Dist. Pune.

...Petitioners

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.

2. The Scheduled Tribe Certificate
Scrutiny Committee, Dhule Division,
Dhule, Tq. & Dist. Dhule.
Through its Member Secretary.

...Respondents

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Mr. Sagar S. Phatale h/f Mr. S.C. Yeramwar,
Advocate for the Petitioners.

Mrs. Kalpalata Patil Bharaswadkar, AGP for Respondents/State.

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CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ..

DATE : 31 JULY 2024

FINAL ORDER [Per: Shailesh P. Brahme, J.] :

. Heard both the sides finally at the admission stage considering exigency for the petitioners.

2. The petitioners are siblings and they are challenging judgment and order dated 30.01.2023 passed by the Scrutiny Committee, confiscating and invalidating their tribe certificates of Thakur scheduled tribe. They seek to rely on old record of Laxman, Pandit, Dwarkabai, Ramkrishna etc.

3. Learned Counsel for the petitioners submits that although there is contrary entry of Fakira of 1923, the entry of Laxman of 1920, being oldest, would prevail. It is further submitted that single contrary entry would not be an impediment for the tribe claims of the petitioners.

4. Learned AGP supports impugned judgment and order. He would submit that the Committee has rightly rejected the caste claim considering old record of Fakira of 1923. The place of residence of the petitioners and their forefathers is also not compatible with the caste claim. The affinity test is recorded against the petitioners. There is no validity certificate issued in the family of the petitioners. He would further point out that there is general tendency of taking benefit of similarity in the surname, Thakur.

5. We have considered the rival submissions of the parties.

We have gone through the genealogy which shows that petitioners are related to Laxman, Pandit, Dwarkabai, and Ramkrishna. The relationship has not been disputed by the respondents. The vigilance inquiry conducted in the present matter indicates that the old record of Laxman Vithoba Thakur of 1920, Dwarkabhai Laxman Thakur of 1951 and Ramkrishna Laxman Tahkur of 1966 indicate caste as 'Thakur'. The vigilance inquiry does not indicate any adverse remarks against the record. Laxman is the grandfather of the petitioners, whereas Dwarkabai is their aunt and Ramkrishna is their father. The record of Laxman is of pre-independence period and has greater probative value. Though record of Dwarkabai is of 1951, it also carries probative value. In view of law laid down by Supreme Court in the matter of **Anand Versus Committee for Scrutiny and Verification of Tribe Claims and Others**, reported in (2012) 1 SCC 113, the record of Laxman and Dwarkabai would enure to the benefit of the petitioners.

6. Learned AGP would harp upon single contrary entry of Fakira Devchand Thakur which is of 1923. The record of Laxman of 1920 being oldest would prevail over contrary entry of Fakira. A single contrary entry would not affect the caste claim of the petitioners. We are of the considered view that the petitioners have made out a case for issuing them validity certificates.

7. The finding recorded by the Committee in respect of

affinity test is unsustainable in view of law laid down by the Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**, 2023 SCC Online SC 326. Similarly area restrictions have been removed by order of 1970 and the place of residence of the petitioners and their forefathers does not carry any significance and not decisive. Rest of the finding of the Committee in respect of similarity in the surname is vague and based on conjuncture and surmises which cannot be sustained. We find that impugned judgment and order is liable to be quashed and set aside. We, therefore, pass following order :

ORDER

- a. The Writ Petition is allowed
- b. The judgment and order dated 30.01.2023 passed by the Scrutiny Committee is quashed and set aside.
- c. The Scrutiny Committee shall issue tribe validity certificates of 'Thakur' Scheduled Tribe to the petitioners forthwith.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE

Najeeb..