



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4603 OF 2024

Kapil Suresh Thakur,
Age 23 years, Occ. Student,
R/o. Tondapur, Tq. Jamner,
Dist. Jalgaon.

... Petitioner

VERSUS

- 1) State of Maharashtra, through its
Secretary, Tribal Development Dept.
Mantralaya, Mumbai.
- 2) Scheduled Tribe Caste Certificate
Scrutiny Committee, Nandurbar
Division, Nandurbar, through
its Member Secretary having its
office at Nandurbar.
- 3) Commissioner & Competent Authority
State CET Cell, Mumbai, having its
Office at New Excelsior Building, A.K.
Nayak Marg, Fort, Mumbai-4000014.
- 4) College of Engineering, Pune.

... Respondents

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Advocate for Petitioner : Mr. R.K. Mendadkar a/w Mr. Viay G. Gangalwad i/b
Mr. Anandsingh S. Bayas
A.G.P. for Respondent nos. 1 & 2 : Mr. Sarang P. Joshi

CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.

DATE : 09.08.2024

ORDER : (MANGESH S. PATIL, J.)

The petitioner is challenging the order of invalidation passed by the
respondent no. 2-scrutiny committee.

2. We have heard both the sides finally in the light of the exigencies.
3. As can be seen from the impugned order, the committee has refused to accept the pre-constitutional record of the blood relatives of the petitioner wherein they were described as belonging to 'Thakur' caste, by applying the principle of area restriction. In the light of decision in the matter of **Palaghat Jila Thandan Samuday Sanrakshan Samiti and Anr. Vs. State of Kerala and Anr.; (1994) 1 SCC 359**, with the removal of area restriction by the Act of 1976, the conduct of the committee in still resorting to the principle of area restriction is clearly illegal.
4. Older favourable record has been outweighed by the committee on the basis of an isolated entry of other backward Thakur of one Suresh Pandit Thakur, dated 27.07.1976. If one follows the principles laid down in the matter of **Anand V. Committee for Scrutiny and Verification of Tribe Claims and others; (2012) 1 SCC 113**, such a stand of the committee is clearly perverse and arbitrary. It could not have discarded the older favourable record of the pre-constitutional period simply on the basis of isolated post independence record.
5. Again, the committee has resorted to the affinity test, which it could not have in the wake of abundance of favourable record.
6. Interestingly, the committee has also noted that there are no validities in the family. Having no validities in the family *ex facie* cannot be a ground for discarding a tribe claim. There would be some one in every family, who would seek to obtain a certificate of validity for the first time.
7. In the light of abundant favourable record wherein petitioner's ancestors were described in the caste claim as 'Thakur', the observation and conclusion in the impugned judgment and order is clearly perverse, arbitrary and unsustainable in law.

8. The Writ Petition is allowed. Respondent no. 2-committee shall immediately issue a validity certificate to the petitioner as belonging to 'Thakur' scheduled tribe.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

mkd/-