

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

929 WRIT PETITION NO.10381 OF 2010
WITH
CIVIL APPLICATION NO.13369 OF 2023
IN WP/10381/2010

MANOHAR VASUDEO THAKUR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

....
Mr S. C. Yeramwar, Advocate for Petitioner;
Mr P. S. Patil, A.G.P. for Respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 1st December, 2023

PER COURT:

1. By the first order dated 11/11/2010, this Court protected the Petitioner against an adverse order.
2. The Petitioner claims to be belonging to the 'Thakur' Scheduled Tribe Category. On the basis of such claim, he was appointed as a 'Shikshan Sevak'. His proposal for validation, was forwarded to Respondent No.2/ Competent Scrutiny Committee in 2007. By the judgment dated 24/06/2010, the claim of the Petitioner was invalidated.

(2)

3. The Petitioner's biological brother, namely, Nilkanth Vasudeo Thakur also suffered invalidation by the judgment of the Committee, dated 03/03/2021. By an order dated 09/08/2023, this Court (Coram : Mangesh S. Patil and Shailesh P. Brahme, JJ.) allowed his Writ Petition No.6157/2021 and directed the Committee to immediately issue a Tribe Validity Certificate.

4. We have perused the order dated 09/08/2023, wherein the statement of the Petitioner's biological brother that, he will not rely on any validity certificate, was recorded. In paragraph Nos. 5, 6 and 7 in the said order, it was concluded as under :-

“6. The learned A. G. P. is unable to point out any circumstance for disbelieving the old documentary evidence. The finding regarding area restriction is unsustainable in view of the judgment of the Supreme Court in the matter of Jaywant Dilip Pawar Vs. State of Maharashtra and others in Civil Appeal No. 2336 of 2011 dated 08.03.2017.

7. It is settled legal position that affinity test is not decisive or litmus test. For the reason stated above the petitioner deserves to get the validity certificate. The impugned judgment and order is unsustainable. Therefore, deserves to be quashed and set aside.

8. For the reasons recorded above, we pass following order.

(3)

ORDER

- 1) *The writ petition is allowed.*
- 2) *The impugned order is quashed and set aside.*
- 3) *The respondent - committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Thakur' scheduled tribe in the prescribed format without adding anything."*

5. We find that the observations in paragraph No.6 from the judgment delivered in favour of the Petitioner's brother, reproduced above, clearly indicates that there are no circumstances for disbelieving the old documentary evidence. It is not disputed before us that the Petitioner is the biological brother of Nilkanth Vasudeo Thakur.

6. We have perused the family tree tendered by the Petitioner's biological brother, with an affidavit. The present Petitioner is shown to be the biological brother of Nilkanth Vasudeo Thakur.

7. The learned A.G.P. submits that, certain issues arising out of claims of the candidates of belonging to the 'Thakur' Scheduled Tribe Category, are pending before the Hon'ble Supreme Court. He, therefore, prays that, this Writ Petition may be adjourned at this stage. We find that the Petitioner has waited

(4)

for more than 13 years for decision. His biological brother has been granted validity certificate by the Co-ordinate Bench of this Court, vide the order dated 09/08/2022. In this backdrop, we find it to be inappropriate to adjourn this Writ Petition, when the Petitioner's biological brother has succeeded before the Co-ordinate Bench.

8. In view of the above and considering the law laid down in **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, Nagpur, 2010 (6) Mh.L.J. 401 : AIR 2010 (6) BOM R 21**, this Writ Petition deserves to be entertained.

9. **This Writ Petition is allowed.** The impugned decision of the Committee, dated 24/06/2010, is quashed and set aside. The Petitioner shall be granted a validity certificate of belonging to the 'Thakur' Scheduled Tribe Category within a period of 45 days from today.

10. In view of the above, **the Civil Application** would not survive and the same **stands disposed off**.

(Y. G. KHOBRADE, J.)
sjk

(RAVINDRA V. GHUGE, J.)