IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3832 OF 2024

AVINASH GOKUL THAKUR
*VERSUS*
STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. R.K. Mendekar h/f Mr. Bayas A.S. a/w Mr. V. G. Gangalwad.
AGP for Respondent/s-State : Mr. S. R. Yadav-Lonikar.
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CORAM : S. G. MEHARE, AND
SHAILESH P. BRAHME, JJ.

DATE : 26.02.2025

PER COURT :-

1. Heard both sides finally considering the exigency in the matter.

2. The petitioner is assailing judgment and order dated 17.01.2019 passed by respondent No.2/committee confiscating and invalidating his tribe certificate of scheduled tribe.

3. Learned counsel for the petitioner submits that there was voluminous record before the Scrutiny Committee in the form of school entries, pre-constitutional record and validities issued to the paternal side blood relatives of the petitioner and

despite that the tribe claim was rejected by the impugned order which is perversity and patent illegally. He would submit that there is no controversy in respect of the relationship of the petitioner with the validity holders. In all nine members of the family were issued with validity certificates by the intervention of the High Courts. Those orders were also placed before the Scrutiny Committee. Few of the orders passed by the High Courts were confirmed in the Supreme Court. Under these circumstances, on the ground of parity the petitioner should have been issued validity certificate.

4. He would further point out that during course of vigilance, the pre-constitutional school entries were found to be genuine. Under these circumstances, those entries having greater probative value would enure to the benefit of the petitioner. He would rely on the judgment of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others ; 2023 SCC OnLine SC 326***. He would also assail the findings recorded by the Scrutiny Committee on the ground of area restriction, incompatible record of Brahma Bhat and the affinity test.

5. Per contra, learned AGP supports the impugned judgment and order. He would vehemently submit that the Scrutiny Committee is justified in discarding the validity certificates. The Committee is justified in recording finding of the area restriction, affinity test and incompatible school record. She would advert our attention to the contrary school record of pre-constitutional period which is reproduced in internal page No.7 of the impugned judgment and order. She would further submit that the petitioner, his family members and their forefathers belong to Brahma Bhat which is not a scheduled tribe. They are taking disadvantage of synonimity in the surname Thakur and therefore, Committee has rightly rejected his claim. She has adverted our attention to the observations of the vigilance report in respect of affinity test.

6. We have considered rival submissions of the parties.

7. The petitioner has adverted our attention to the genealogy which is at page No.137. The petitioner is banking on the validities issued to Pramodkumar, Yogeshkumar, Sheetal, Kavita, Bhausaheb, Priyanka and many others. These validity holders are figuring in the genealogy and they are

paternal side relatives. The committee did not express any reservation for their relationship with the petitioner.

8. It transpires from record that Bhausaheb Tulshiram Wagh was issued with validity certificate by order dated 31.08.1998 in Writ Petition No.4525 of 1998. By common judgment and order dated 23.04.2015, Pramodkumar, Sheetal and Yogeshkumar were issued with validity certificates those are first degree cousin of the petitioner. The judgment of the Co-ordinate Bench was confirmed by the Supreme Court. Thereafter, Kavita, first degree cousin was also issued with validity certificate by the Co-ordinate Bench vide judgment and order dated 24.02.2010 in writ petition No.7271 of 2009. The said judgment is also confirmed by the Hon'ble Supreme Court.

9. In the wake of above validities, we find that the present case is squarely covered by ratio laid down by the Supreme Court in the case of ***Maharashtra Adiwasi Thakur Jamat*** (cited supra). The earlier validities were issued by following due procedure of law and would corroborate the petitioner's claim. We have not being pointed out any circumstance, document or any impediment so as to raise any doubt about the validities

stressed into service by the petitioner.

10. The findings recorded by the Scrutiny Committee in respect of area restriction as well as affinity test are thoroughly unsustainable. Those findings are contrary to law laid down by *Palghat Jilla Thandan Samithi* as well as *Jaywant Pawar*. Affinity test is not a litmus test is also a ratio laid down by the Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat*** (supra).

11. The reference by learned AGP to the pre-constitutional record of the relatives of the petitioner is thoroughly misplaced because admittedly those relatives are not paternal side relatives. Their relationship is mentioned in the table. Therefore, her submission cannot be accepted.

12. There are number of validities in the family. Unless earlier validities are revoked, the petitioner cannot be deprived of some social status. The self same record has already been scrutinized by High Court as well as the Scrutiny Committee while granting validities in the family. We are of the considered view that the petitioner is entitled to receive validity on the ground of parity. We find that the impugned judgment and

order is sustainable. We, therefore, pass the following order :

**O R D E R**

(i) Writ Petition is allowed.

(ii) The impugned judgment and order passed by the Scrutiny Committee stands quashed and set aside.

(iii) Respondent No.2/Scrutiny Committee shall issue Tribe Validity Certificate to the petitioner forthwith.

(iv) The petitioner shall not claim equities.

**(SHAILESH P. BRAHME, J.)** **(S. G. MEHARE, J.)**

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vmk/-