



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7014 OF 2023

Gaurav S/o Sanjay Thakur
Age : 20 years, Occu : Education,
R/o. Mahadevpur, Bhagwa Chowk,
Dondaicha, Tq. Shindkheda,
Dist. Dhule

.. Petitioner

Versus

Schedule Tribe Certificate
Scrutiny Committee,
Dhule, Through its Member Secretary

.. Respondent

...
Advocate for petitioner : Mr. Mahesh S. Deshmukh
APP for the respondent – State : Mr. Ruchir S. Wani
...

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

**RESERVED ON : 24 JULY 2024
PRONOUNCED ON : 05 AUGUST 2024**

ORDER (MANGESH S. PATIL, J.) :

Petitioner is challenging the order of the respondent –
scrutiny committee refusing to validate his Thakur scheduled tribe
certificate and directing its confiscation and cancellation.

2. At the joint request of the parties, we have heard the
matter finally at the stage of admission.

3. Learned advocate Mr. Deshmukh for the petitioner would
submit that the committee has illegally refused to extend the benefit of

the validities in the family. The committee has observed that those validity holders had obtained certificates of validity by concealing school record of one Jamsing Ganpatsing Thakur and Baija Barsing Nharsing wherein they were described as 'Bhat' and 'Thakur' alias 'Bhat', respectively, ignoring the fact that in reply to the vigilance cell report, the petitioner had expressly denied these two individuals to be related to him, the vigilance cell and the committee described these two individuals as second degree cousin grandfather and cousin great grandmother. The impugned order does not demonstrate the committee having undertaken any scrutiny of the substantial stand of the petitioner denying any relationship with these two individuals.

4. Mr. Deshmukh would further submit that the petitioner had specifically relied upon and had produced school leaving certificate of grandfather Rajesing Diwansing Thakur, according to which he was admitted in the school on 11-03-1949 and that of cousin great grandfather Surajsing Nikumbh who was admitted in the school on 14-07-1946. He would submit that though these two were the pre-constitutional documents, the committee has conveniently overlooked those. He would, therefore, submit that the decision based on insufficient enquiry in the light of the stand being taken by the petitioner denying the relationship with Jamsing Ganpatsing Thakur and Baija

Bansing Nharsing and ignoring the pre-constitutional record produced by the petitioner is perverse and arbitrary.

5. Mr. Deshmukh would further submit that this Court has consistently held invalidities in the family will not bind the other blood relatives who can, still, substantiate their claims by leading cogent and convincing evidence, sufficient enough to satisfy the committee. He would, therefore submit that even if there are few invalidities, irrespective of the fact that invalidity of Monika Thakur and Chetan Thakur is pending with the Supreme Court, that would not prevent the petitioner from substantiating his claim.

6. Mr. Deshmukh would submit that even the committee has now decided to undertake scrutiny of the matters of some validity holders by resorting to some proceedings, till the time those enquiries do not reach logical end, the petitioner cannot be made to wait and cannot be deprived of deriving the benefit of the validities which are intact.

7. The learned AGP would oppose the petition. He would submit that the committee has assigned plausible reasons in discarding the claim. It has referred to the oldest entries of Jamsing Ganpat Thakur and Baija Bansing Nharsing. Even validity holders had

resorted to fraud while obtaining the validities. Orders regarding invalidation were concealed and the petition be dismissed.

8. We have considered the rival submissions and perused the papers.

9. There is no dispute about the fact that indeed, some blood relatives of the petitioner have faced orders of invalidation. Some matters are pending with this Court, whereas, some of those are in the Supreme Court. However, we have consistently held that such orders regarding invalidation would bind only the claimants therein and cannot operate as *res judicata* against the blood relatives. If it is a matter of substantiating caste or tribe claim, merely because some other blood relative has not been able to discharge the burden under section 8 of the Maharashtra Act No. XXIII of 2001, that cannot deprive the other relatives from leading convincing evidence to substantiate the claim.

10. Therefore, in our considered view, merely because some of the blood relatives have faced orders of invalidation, that cannot prevent the petitioner in prosecuting his own cause.

11. Conversely, since it is a matter of social status, as has been laid down in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***; paragraph no. 22, if there are blood relatives

possessing certificates of validities, its benefit deserves to be extended to the other blood relations. The only *caveat* provided therein is to the effect that there should not be any dispute about blood relationship inter se between the claimant and the validity holders and that the certificates of validities should have been issued by following due process of law and by a reasoned order.

12. Bearing in mind the afore-mentioned principles, nothing has been demonstrated before us and even the impugned order does not expressly demonstrate either that the validity holders being relied on by the petitioner are not related to him or that there was no due process of law or a reasoned order. The only reason assigned by the committee for refusing to extend the benefit of the validities in the family to the petitioner is that the afore-mentioned two contrary entries of Jamsing Ganpatsing Thakur and Baija Barsing Nharsing were not disclosed to the committee and the validities were obtained. Since the committee has clearly overlooked the fact that in reply to the vigilance report, the petitioner had expressly denied having any blood relationship with these two individuals, the observations and the conclusion of the committee refusing to extend the benefit of the validity holders to the petitioner, is clearly perverse, arbitrary and capricious.

13. Besides, even if the committee perceives that the validity holders had resorted to some fraud, such inference cannot be based on surmises and conjectures. The committee will have to undertake a threadbare enquiry into the allegation of fraud and to take the matter to the logical end. The only ground assigned by the committee for refusing to extend the benefit of the validities in the family to the petitioner referring to these two entries being not sustainable, the petitioner deserves to be extended the benefit of these validities.

14. Incidentally, when the petitioner had expressly in his reply to the vigilance report, mentioned about having submitted two school leaving certificates of his grandfather Rajesing Diwansing Thakur admitted on 11-03-1949 and cousin grandfather Surajsing admitted on 13-07-1946, expressly describing them in the cast column as 'Thakur', neither the vigilance report nor the impugned order contains any sentence about consideration of this pre-constitutional record. We cannot approve of such a conduct of the committee in referring to the contrary record of individuals with whom the petitioner is questioning the relationship and ignoring the pre-constitutional favourable school record produced by him.

15. Be that as it may, in the light of the validities in the family, since those were issued by following due process of law and there is no dispute about the relationship between the petitioner and these

validity holders, the petitioner deserves to be extended its benefit. The impugned order is clearly arbitrary and perverse.

16. The writ petition is partly allowed.

17. The impugned order is quashed and set aside. 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. The validity shall be subject to the final outcome of the matters which are pending before this Court and the Supreme Court.

18. The petitioner shall not claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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