



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

145 WRIT PETITION NO. 4350 OF 2012

1. Amol s/o Suresh Thakur
Age : 32 years, Occ : Service,
R/o. A/P Songir,
Tal & Dist. Dhule. ...Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Transport Department,
Mantralaya, Mumbai-32.
2. The Committee for Scrutiny and
Verification of Tribe Claims,
Through its Dy.Director (Research)
Nandurbar.
3. The Divisional Controller,
Maharashtra State Road Transport Corporation
(M.S.R.T.C), N.D.Patel Road,
Shingada Talav, Nashik,
Dist.Nashik. ...Respondents

Shri A. P. Yenegure, Advocate h/f Shri Arun H. Koralkar,
Advocate for the Petitioner

Shri P. S. Patil, AGP for Respondent No. 1.

Shri M. K. Goyanka and Shri A. B. Dhongade, Advocate for
Respondent No. 3

Shri A. R. Salve, Advocate for Respondent No. 2 – Absent

Shri Ashok B. Tele, Advocate for Respondent No. 2 – Absent

**CORAM : S. G. MEHARE &
SHAILESH P. BRAHME, JJ.**

DATED : 3rd FEBRUARY, 2025

PER COURT :

1. Heard both sides finally with consent.
2. This petition is directed against judgment and order dated 17.04.2012, passed by Respondent No.2/Scrutiny Committee, confiscating and invalidating tribe certificate of 'Thakur', Scheduled Tribe of the petitioner.
3. Petitioner is relying on validity certificates issued to his real brothers Dinesh and Umesh, cousin Manohar and other family members. He is also relying on pre-constitutional record of Babulal Fakira Thakur of 12.01.1943 and Bhugan Fakira Thakur of 09.03.1949, besides school record of the blood relatives. Learned counsel for the petitioner submits that the validities granted in the family are still intact. The petitioner is entitled to validity on the ground of parity.
4. Learned AGP supports impugned judgment and order. He would submit that committee has rightly discarded pre-constitutional record as well as school record produced by the

petitioner. Petitioner was unable to get through affinity test. The Committee has passed orders giving elaborate reasons and has arrived at a possible view.

5. The petitioner has produced genealogy in paperbook at page No. 114. The relationship of the petitioner with the persons figuring in the genealogy, who are shown to have received validity, has not been disputed. Petitioner's real brothers Dinesh and Umesh are the validity holders. His cousin Manohar was issued with validity certificate, which was placed before the Committee. Dinesh was issued with validity certificate by co-ordinate bench in Writ Petition No. 4215 of 2009 vide order dated 25.07.2017. It is informed across bar that Umesh was issued with validity certificate by the orders of the Committee, which is not disputed by learned AGP. The validities pressed into service by the petitioner can be said to have been issued by following due procedure of law and after scrutinizing selfsame record. Petitioner is entitled to receive validity certificate on the ground of parity.

6. The pre-constitutional record was before Committee in the form of birth certificate of real uncle of the petitioner, Babulal Fakira Thakur of 12.01.1943 and school record of another uncle

Bhugan Fakira Thakur of 09.03.1949. During vigilance both the entries were not doubted. Those are having more probative value and would enure to the benefit of the petitioner. It is perversity to discard the clinching material on record.

7. Findings of the committee about area restriction are not sustainable in view of removal of area restriction from 1976. Similarly, the finding on the affinity test is also unsustainable in view of latest judgment of the Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**, reported in **2023 SCC Online SC 326**. We find substance in the petition, which deserves to be allowed. Hence, we pass the following order.

ORDER

- (i) Judgment and order dated 17.04.2012 passed by Respondent No.2/Scrutiny Committee is quashed and set aside.
- (ii) The committee shall issue validity certificate of 'Thakur', Scheduled Caste, to the petitioner forthwith.
- (iii) Rule is made absolute in above terms.

(SHAILESH P. BRAHME, J.)

(S. G. MEHARE, J.)

Komal/