



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

**916 WRIT PETITION NO. 6436 OF 2014**

**MANGALA BHDHA THAKUR**

**VERSUS**

**SCHEDULED TRIBE CERTIFICATE SCRUTINY COMMITTEE, NANDURBAR  
AND OTHERS**

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Advocate for the Petitioner : Mr. Deshmukh Mahesh S.

AGP for Respondent/State : Mrs. R.R.Tandale

Advocate for Respondent Nos. 2 and 3 : Mr. S.G.Rudrawar

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

**DATE : 31<sup>st</sup> JANUARY 2025**

**PER COURT :**

1. Heard both sides at the admission stage with the consent of the parties. Petitioner is taking exception to the judgment and order dated 30.06.2014 passed by respondent/scrutiny committee invalidating her tribe certificate of the petitioner. Present petition is filed under Articles 226 and 227 of the Constitution of India.

2. The petitioner is relying on three pre-constitutional documents namely school leaving certificate of Budho Bapu Thakur of 1933 another school leaving certificate of Budho Bapu Thakur of 1939 and extract of school admission of Budho Bapu Thakur of 1928. The petitioner has also produced other documentary evidence including validity certificate issued to her real brother Prakash and to nephew Amol. Learned counsel for the petitioner submits that in view of the

pronouncements of the Hon'ble Supreme Court, her claim deserves to be allowed. The validities issued to the paternal sides relatives are still intact. The findings of the committee regarding area restrictions are totally unsustainable. He relies on the judgment of this Court in the matter of **Ravindra Pralhadrao Khare vs. State of Maharashtra and Ors.** reported in 2014(7) Bom.C.R678

3. *Per contra* learned AGP supports impugned judgment and order. She would point out that petitioner failed to pass the test of affinity. The findings of the area restrictions are based on material on record. The committee has rightly discarded the pre-constitutional record. During the course of vigilance enquiry contrary entries were found mentioning caste as Hindu Thakur E.Ma and Thakur Pachore (O.B.C). The committee has strenuously dealt with various judgments in discarding the tribe claim of the petitioner and therefore no interference is called for.

4. We have considered rival submissions of the parties. At the outset, it is necessary to mention that neither committee nor AGP expressed any reservations regarding the relationship of the petitioner with the validity holder. Pertinently, the pre-constitutional entries were duly verified by the vigilance cell and those are not castigated in its report. Under these circumstances when there exists pre-constitutional record of three school entries and in view of judgment of Hon'ble Supreme Court in the matter of **Anand Vs. Committee For Scrutiny and Verification of Tribe Claims and Others**

reported in (2012) 1 SCC 113, we have no alternative than to accept those entries. The scrutiny committee committed grave perversity in discarding those entries. Those entries are clinching having greater probative value.

5. In view of latest judgment of Hon'ble Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarkshan Samiti** (supra) it has been ruled that affinity test is not a litmus test. Another ratio laid down in same judgment is that when the validity certificates of the blood relatives are issued after following due procedure of law, those would enure to the benefit of the claimant. In the present case petitioner has relied on validity of real brother Prakash and nephew Amol. Those validities are still intact. No steps have been taken by the committee for recalling those validities. Unless and until those validities are recalled the petitioner cannot be discriminated by denying the same social status. Petitioner deserves to be treated equally and deserves to receive the validity certificate.

6. In view of removal of area restrictions as well as pronouncements of Hon'ble Supreme Court in the matter of **Palghat Jilla Thandan Samudhaya Samrakshana Samithi and Anr. Vs. State of Kerala and Anr.** reported in 1994 (1) SCC 359 the observations of the committee in respect of the area restrictions and ordinary place of residence of the petitioner and her forefathers are inconsequential and totally unsustainable.

7. Our attention is invited to the findings recorded by the committee in respect of pre-constitutional entries and banking upon those entries it has been observed that the forefathers of the petitioner are educated and they can not be treated as tribal. These findings are misconceived. There is no prohibition either in the statute or the rules that just because the forefathers of the tribal are educated, their lineal descendants can not enjoy the same social status.

8. We have also noticed further findings of the committee recorded under clause 8 in the impugned order that the entries and the school record indicates caste as 'Thakur' and not 'Scheduled Tribe Thakur'. This finding cuts across the ratio laid down by co-ordinate bench of this Court in the matter of **Ravindra Pralhadrao Khare vs. State of Maharashtra and Ors.** reported in 2014 (7) Bom.C.R.678 and more specifically in its paragraph no.4.

9. In view of the clinching piece of evidence which we have discussed above, we have no iota of doubt that the petitioner deserves to be issued with validity certificate. Impugned judgment and order is unsustainable. We therefore pass following order :

#### ORDER

- a) Impugned judgment and order dated 30.06.2014 is quashed and set-aside.

b) Respondent No.1/scrutiny committee shall issue tribe validity certificate of 'Thakur' Scheduled Tribe to the petitioner forthwith.

c) Rule is made absolute in above terms.

[ SHAILESH P. BRAHME, J.]

[ S. G. MEHARE, J.]

vsj..