



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 804 OF 2006

Jayesh S/o Ramsing Thakur,
Age : 17 Years, Occu. : Student,
Minor through Natural Guardian
Shri Ramsing Daulatsing Thakur,
Age : 50 Years, Occu. : Service,
R/o Saraswati Colony, Plot No. 25,
Dondiacha, Dist. Dhule.

.. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste
Certificate Verification Committee,
Through its Chairman/Director,
Nasik Division, Nasik.
3. The Sub Divisional Officer
Shirpur Division, Dhule.
4. The Collector,
Collectorate, Dhule.

.. Respondents

WITH
WRIT PETITION NO. 2306 OF 2006

Vaishali D/o Ramsing Thakur,
Age : 20 Years, Occu. : Student,
R/o Saraswati Colony, Plot No. 25,
Dondiacha, Dist. Dhule.

.. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
Tribal Development Department,
Mantralaya, Mumbai.

2. The Scheduled Tribe Caste
Certificate Verification Committee,
Through its Chairman/Director,
Nasik Division, Nasik.
3. The Sub Divisional Officer
Shirpur Division, Dhule.
4. The Collector,
Collectorate, Dhule. .. Respondents

**WITH
WRIT PETITION NO. 2376 OF 2006**

Nilesh S/o Ramsing Thakur,
Age : 16 Years, Occu. : Student,
Minor through Natural Guardian
Shri Ramsing Daulatsing Thakur,
Age : 50 Years, Occu. : Service,
R/o Saraswati Colony, Plot No. 25,
Dondiacha, Dist. Dhule. .. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste
Certificate Verification Committee,
Through its Chairman/Director,
Nasik Division, Nasik.
3. The Sub Divisional Officer
Shirpur Division, Dhule.
4. The Collector,
Collectorate, Dhule. .. Respondents

Shri A. S. Golegaonkar, Advocate for the Petitioner in all matters.
Shri S. G. Sangle, A.G.P. for the Respondent Nos. 1 to 4 in all matters.

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

DATE : 13 OCTOBER 2023.

ORAL JUDGMENT :

. Heard both sides.

2. The Writ Petition No. 2306 of 2006 and Writ Petition No. 2376 of 2006 are not on board. On mentioning by the learned counsel for the petitioners, same are taken on board and heard together with Writ Petition No. 804 of 2006 as all the petitioners are siblings and sons and daughter of Ramsing Thakur.

3. The petitioners have been challenging orders of the respondent/Scrutiny Committee passed in the proceedings under Section 7 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short “Act of 2000”) thereby confiscating and cancelling their ‘Thakur’ (Scheduled Tribe) certificates.

4. The learned advocate for the petitioners points out that the petitioners’ real sister Ashvini Ramsing Thakur has been granted certificate of validity in the year 2005. Even their first degree cousin Sudhakar Tulshiram Thakur has also been granted certificate of validity in the year 2002. Though both the validities were before the Committee, it has not assigned any

reason as to why the benefit of these two validities could not be extended to the petitioners.

5. The learned advocate would further submit that independently, there was a pre-presidential order school record of the petitioners' grandfather Daulat Harising Thakur issued by the Head Master Zilla Parishad Kendrashala, Lonkheda, Tq. Shahada, Dist. Nandurbar mentioning his caste as Thakur. Neither the vigilance, nor the Committee doubted the genuineness of this school record, still the Committee has not assigned any reason as to why its benefit could not be extended to the petitioners.

6. The learned advocate lastly submits that the Committee has simply resorted to the area restriction principle, which it could not have and has also resorted to the affinity test, whose efficacy has been commented upon by the Supreme Court in the matter of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims : (2012) 1 SCC 113** and **Maharashtra Adiwasli Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others : 2023 SCC Online SC 326.**

7. The learned Assistant Government Pleader supports the impugned orders.

8. When admittedly, the petitioners' real sister Ashvini Ramsing Thakur and first degree cousin Sudhakar Tulshiram Thakur possess certificates of validity and when it is not stand of

the committee that those validities were granted without following due procedure of law, following the principles laid down in paragraph Nos. 22 and 23 in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti** (supra), the petitioners deserve to be extended the benefit of validities in the family. Interestingly, the Committee has not assigned even some perfunctory reasons as to why benefit of these validities could not be extended to the petitioners.

9. Besides, as has been pointed out by the learned advocate for the petitioners, there is school record of the petitioners' grandfather Daulat Harising Thakur of 09.06.1941, wherein his caste was referred to as 'Thakur'. The Committee has not doubted the genuineness of this school record. Even the vigilance report is silent about its genuineness. If this is pre-presidential order record, it would carry greatest probative value in the light of the decision in the matter of **Anand** (supra) and clearly supports the petitioners' claims.

10. As far as the area restriction is concerned in view of the decision of the Supreme Court in the matter of **Palghat Jila Thandan Samuday Sanrakshan Samiti and another Vs. State of Kerala : (1994) 1 SCC 351**, it could not have been resorted to by the Committee and the observations in that regard are clearly perverse, arbitrary and against the principles laid down in the judgment of **Palghat Jila Thandan Samuday Sanrakshan Samiti and another** (supra).

11. The efficacy of the affinity test has been commented upon by the Supreme Court in the matter of **Anand** as well as **Maharashtra Adiwasli Thakur Jamat Swarakshan Samiti** (supra). If the documents clearly support the claim of belonging to Scheduled Caste or Scheduled Tribe, the question of entering into realm of affinity test would not arise.

12. In the light of the above, the conduct of the Committee in overlooking the validities in the family and the pre-presidential order school record and instead applying the principles of affinity test and area restriction is clearly perverse and arbitrary.

13. The impugned orders are clearly illegal and are liable to be quashed and set aside.

14. The writ petitions are allowed. The impugned orders are quashed and set aside. The respondent/Scrutiny Committee shall issue certificates of validity to the petitioners within a period of two (02) weeks from today. The writ petitions are disposed of. Rule is made absolute in above terms.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/Oct. 23