



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3020 OF 2006

Vishal s/o Subhash Thakur,
Age 20 years, Occ. Student
R/o 14/15, Bhavsar Plot
Behind JJ Hospital, Near Water
Tank Station Road, Dondaicha
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, Dist. Dhule
- 4) The Collector, Collectorate
Dhule.
- 5) Deccan Education Society's
Fergusson College,
Pune,
Through its Principal.
- 6) The Directorate of Technical Education
Maharashtra State 3, Mahapalika Marg,
P.O. Box 1967, Mumbai.
- 7) Pune University,
Through its Registrar.
- 8) Shree C.E. Society's
Indira Institute of Management Pune
Through its Principal

... **Respondents**

...
Advocate for the Petitioner : Mr. M.A. Golegaonkar h/f Mr. A.S. Golegaonkar.
A.G.P. for the Respondents/State : Mr. S.G. Sangale

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

DATE : **06.09.2023**

PER COURT :

Heard Mr. Golegaonkar learned advocate for the petitioner and the learned A.G.P.

2. The petitioner is challenging the order passed by the respondent-scrutiny committee constituted under Section 6 of the Maharashtra Act XXIII of 2001, confiscating and cancelling his certificate of 'Thakur' scheduled tribe.

3. As can be seen, admittedly, as has been mentioned in the impugned order itself, the petitioner's father Subhash and brother Vaibhav have been granted certificates of validity pursuant to the orders of this Court in Writ Petition No. 2128/1996 and Writ Petition No. 5940/2008 respectively. Even the petitioner's another brother Amit possesses a certificate of validity since the year 2000. The committee has refused to extend the benefit of these validities on the ground that affinity test was not applied and that the certificates of validities were issued only pursuant to the orders of the High Court.

4. Incidentally, though the petitioner was relying upon several documents, the committee has not undertaken any scrutiny of the claim on the basis of these documents tendered by him. As far as the reasons being assigned by the scrutiny committee about the area restriction and affinity, this Court in the matter of Vaibhav has elaborately considered all these aspects and the similar reasoning which was resorted to by the committee

while discarding Vaibhav's claim. It was also considered that he was entitled to take the benefit of the validities in the family.

5. The issue regarding affinity test not being a litmus test and has a limited scope has also been considered by the Supreme Court in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others*; 2023 SCC Online SC 326 and *Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors*; (2012) 1 SCC 113. It is not the stand of the committee that the certificates of validity issued to the petitioner's father and brothers were so issued without following due process of law. Consequently, following the decision in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)* the petitioner is entitled to have a certificate of validity.

6. The Writ Petition is allowed.

7. The impugned order is quashed and set aside. The respondent-scrutiny committee shall immediately issue a certificate of validity to the petitioner of 'Thakur' scheduled tribe.

8. Rule is made absolute in above terms.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-