



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8518 OF 2024

1. Sagar s/o Rajaram Thakur
Age 25 years, Occ. Student
2. Govind s/o Rajaram Thakur,
Age 31 years, Occ. Student
3. Varsha d/o Rajaram Thakur,
Age 35 years, Occ. Service

All R/o Village Morenagar,
Kanheri Road, Opp. Darak Hospital,
Latur, Dist. Latur.

...Petitioners

VERSUS

1. The State Of Maharashtra
Through Its Secretary
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Kinwat Division, Aurangabad,
Through its Member Secretary.
3. The Sub Divisional Officer,
Latur.

...Respondents

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Advocate for Petitioners : Mr. Golegaonkar Madhur A.

AGP for Respondents/State : Mr. V.M. Chate

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

DATE : 20 AUGUST 2024

PER COURT :

- . Heard both the sides finally at the stage of admission.

2. The petitioners are taking exception to the respondent no.2/Scrutiny Committee's order, refusing to validate their Thakur scheduled tribe certificates.

3. The learned advocate for the petitioners would take us through the genealogy and would submit that there are number of validities in the family starting from Angad Rambhau Thakur issued on 09.03.2004. Even the petitioners' real sister and their father Rajaram have been subsequently issued with certificates of validity. Even if the Committee has now decided to undertake re-verification of the validities issued to the petitioner's father – Rajaram and their sister – Harsha, so long as the validity of Angad remains, the petitioners cannot be deprived of having the benefit and the re-opening of the matters of their father and sister would be of no consequence. Learned advocate would further submit that Angad had filed affidavit in support of the petitioners by giving the genealogy as is contemplated under Rule 11 of the Rules 2003 framed under the Maharashtra Act No.XXIII of 2001. The Committee has not doubted blood relationship between the petitioners and Angad. He would therefore, submit that irrespective of any other observation and conclusion of the Committee, since Angad's validity is not sought to be revoked by undertaking any process, the petitioners may be granted certificates of validity by setting aside and reversing the impugned judgment and order.

4. Learned AGP would initially seek time to fetch the original record of Angad. Independently, he would submit that the Committee

for the reasons recorded in the impugned order has now formed a view about the petitioners' father having obtained certificate of validity by practising fraud and has even issued notice to him. The petitioners cannot be allowed to take benefit of the fraud practised by him.

5. We have considered the rival submissions and perused the record. In the normal course, the request of learned AGP to fetch original file of validity holder – Angad, seems to be innocuous. However a careful perusal of the judgment and order under challenge, would reveal that the Committee itself has not undertaken any scrutiny and has not even gone through the original file of Angad. It has also not made any observation touching the circumstances in which he was granted certificate of validity. Since, his was the validity first in point of time, the decision of the Committee questioning the genuineness and sustainability of the validities of petitioner's father and sister is inconsequential, for, so long as Angad who is related to the petitioners by blood, possesses certificate of validity, every blood relative like the petitioners would be entitled to derive the benefit. It is in the light of these peculiar circumstances, according to us the original file of Angad need not be perused.

6. Be that as it may, apart from the validity of Angad which is not even being commented upon by the Scrutiny Committee, the Committee has not been able to trace out any contrary record. The entire record reproduced by the Committee demonstrates the

petitioners and their blood relatives having been described as Thakur and in some cases, Hindu. Hindu being a religion and not a caste, Committee could not have treated this entry as contrary to the claim of Thakur.

7. Though the Committee has also referred to couple of entries describing petitioner's father as Sonar, those are of latter period i.e. 1970 which cannot outweigh the earlier favourable record.

8. The Committee's conduct in refusing to treat Thakur entries as describing Thakur scheduled tribe, by applying area restriction is contrary to the principles laid down in the matter of **Palaghat Jila Thandan Samuday Sanrakshan Samiti and Anr. Vs. State of Kerala and Anr.**; (1994) 1 SCC 359 and in the light of Amendment Act of 1976.

9. The upshot, petitioners' blood relative – Angad possesses certificate of validity. They are entitled to derive its benefit, when there is nothing to demonstrate that he was issued with certificate of validity without following due process of law.

10. The writ petition is allowed. The impugned order dated 14.05.2024 is quashed and set aside. The Committee shall issue certificates of validity of Thakur scheduled tribe to the petitioners immediately.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb..