



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3035 OF 2023

Tushar s/o Sunil Somwanshi, age : 20
years, Occ : Student, R/o Gopalkhed,
Tq. & Dist. Akola.

... PETITIONER

VERSUS

1. Schedule Tribe Caste Certificate
Scrutiny Committee, Amravati
Division, Old by pass Road,
Chaprashipura Amravati, through its
Vice Chairman/Jt. Commissioner.
2. Government Industrial Training
Institute, Javhar, Tq. Javhar, District
Palghar, through its Principal.

... RESPONDENTS

AND

WRIT PETITION NO.3788 OF 2023

Viashnavi d/o Subhash Somwanshi,
age : 23 years, Occ : Student, R/o Plot
No.19, Purna Niwas, Konark Nagar 2,
Adgaon Shivar, Nashik

... PETITIONER

VERSUS

Schedule Tribe Caste Certificate
Scrutiny Committee, Amravati
Division, Old by pass Road,
Chaprashipura Amravati, through its

Vice Chairman/Jt. Commissioner.

... RESPONDENT

Shri C.M. Rathod, Advocate for the petitioners.
Ms Sapkal, Assistant Government Pleader for the State.

CORAM : VINAY JOSHI AND SANJAY A. DESHMUKH, JJ.
DATED : 24.07.2024.

JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the parties.

3. Rejection of caste claim of both petitioners vide common order dated 28.04.2022 gave rise to invoke writ jurisdiction of this Court. For the sake of convenience, both petitions are heard and decided by this common judgment.

4. Petitioner Tushar Somwanshi (Writ Petition No.3035/2023) and petitioner Vaishnavi Somwanshi (Writ Petition No.3788/2023) are claiming to be belonging Thakur – Scheduled Tribe which is at entry at Serial No.44 in the list of the Constitution (Scheduled Tribes) Order, 1950. Their caste claim was forwarded to the

respondent- Scrutiny committee for verification and issuance of validity certificate. The Scrutiny Committee being dissatisfied, on the documents and in the affinity test has declined to accede the petitioners' urge for grant of validity.

5. The petitioners have submitted various documents which are referred at serial nos.1 to 41 in the impugned order showing that they belongs to "Thakur" Scheduled Tribe. Several pre-constitutional documents have been produced, however we do not find it necessary to record each and every document in the context of subsequent issuance of validities in the families by virtue of order of this Court.

6. Father of petitioner Vaishnavi namely Subhash and uncle of both petitioners namely Gajanan had similarly challenged rejection of caste claim vide writ petition Nos.3487 and 3492 of 2022, which were also decided by common judgment and order dated 15.04.2024. This Court has considered the similar set of documents and found that the then petitioners Gajanan and Subhash have established their caste claim on the basis of documentary evidence ranging from the year 1912 to 1948. The relevant observations of this Court made in paragraph 15 in said common judgment, reads as below :

"15. Having considered the aforesaid

discussions and the law laid down by the Hon'ble Apex Court it reveals that, the above documentary evidence of the years 1912 to 1948 speaks of ancestors of the petitioners, belonging to the "Thakur" Community. The said entries pertain to various public documents such as; school records and Register of Birth and Death. The documents from the pre-constitutional era have more probative value. Thus, based on the said documents as well as the law laid down by the Hon'ble Apex Court as referred above, in our view, the petitioners are entitled to get a validity certificate as they belong to the "Thakur" Scheduled Tribe."

7. In pursuance of said order validities were issued to both Gajanan and Subhash. There is no dispute that Subhash is the father of petitioner Vaishnavi, whilst Gajanan is the real uncle of both petitioners. The relationship is also evident from the genealogical tree. Since these validities have been issued post impugned order, they have not been placed before the Committee. Law in this regard is fairly well settled in case of ***Apoorva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and other 2010 (6) Mh.L.J. 401***, which ruled that if the validity has been issued in the family to the blood relatives, the claimant is entitled for the validation. Since two validities issued in the family that too father and uncle of the petitioners on same set of

documents, we have no hesitation to hold that the petitioners are equally entitled for issuance of validities. In view of the above, we hold that the petitions deserve to be allowed, hence the following order :

- (a) The Writ Petitions are allowed.
 - (b) The impugned order dated 28.04.2022 passed by the respondent – Scrutiny Committee is hereby quashed and set aside.
 - (c) It is declared that the petitioners namely Tushar s/o Sunil Somwanshi and Vaishnavi d/o Subhash Somwanshi belong to the “Thakur” Scheduled Tribe.
 - (d) The respondent Scrutiny Committee is directed to issue a Caste Validity Certificate of “Thakur” Scheduled Tribes to the petitioners within a period of four weeks from the production of a copy of this judgment.
 - (e) In the meantime, the Competent/Concerned Authority to act upon this Judgment.
8. The petitions are disposed accordingly. No costs.

(SANJAY A. DESHMUKH, J.)

(VINAY JOSHI, J.)

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