



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 8039 OF 2006

Kum. Manisha d/o Bhimrao Thakur  
Age : 23 yrs, occ : service  
R/o 25-B, Nandanvan Bank Colony,  
Near Nagsenvan High School Colony,  
Deopur, Dhule

Petitioner

Versus

1. The State of Maharashtra  
Through the Secretary, Tribal  
Development Department,  
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste  
Certificate Verification Committee  
Nasik Division, Nasik  
Throuygh its Director
3. The Sub Divisional Officer,  
Office of SDO,  
Taloda, District Nandurbar.
4. The Collector,  
Collectorate, Dhule

Respondents

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Mr. A.S. Golegaonkar, Advocate for the petitioner.  
Mr. A.S. Shinde, A.G.P. for respondent Nos.1, 3 and 4.

...

CORAM : R.G. AVACHAT AND  
SANDIPKUMAR C. MORE, JJ.

DATED : 1 APRIL 2025

ORAL JUDGMENT (PER R.G. AVACHAT, J.):

1. Rule. Rule made returnable forthwith. Heard  
finally with consent of the parties.

2. The petitioner, whose tribe validity has been invalidated by the respondent Tribe Certificate Scrutiny Committee, is before us taking exception thereto. The main relief prayed in this writ petition is as under :

*"B) To quash and set aside the order of Committee dt. 28/6/2006 and declare that petitioner belongs to Thakur Scheduled Tribe [as claim of her real brother - Vishal S/o Bhimrao Thakur has already been validated by Committee vide order dt. 30/9/2003 and further direct Committee to issue Caste Validity Certificate in favour of petitioner within a stipulated period of one month, by issuing appropriate writ, order or directives, as the case may be.*

*C) To quash and set aside impugned decision of Committee dt. 28/6/2006 and remand matter to Committee for deciding tribe claim afresh, by issuing appropriate writ, order or directives, as the case may be"*

3. The petitioner claims to have belonged to 'Thakur' Scheduled Tribe. The Committee turned down his claim mainly on the ground that he has not satisfied the affinity test. The learned Advocate for the petitioner, relying on the judgment of Division Bench of this Court in the case of **Anand vs Committee for Scrutiny and Verification of Tribe Claims and ors., (2012) 1 SCC 113**, contended that affinity test is not a litmus test. According to him, the petitioner's brother Vishal has been granted validity post 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 the Act of 2000) came into force. It is not the case of the contesting respondent that Vishal obtained validity by practicing fraud. His case has not been reopened by issuing notice to him in that regard. According to him, it would be illogical that both the siblings would be of different caste/tribe to represent themselves in the society at the same time. Since the real brother's validity has stood scrutiny and the same has not been reopened, the petitioner is entitled for grant of validity certificate at least until the validity certificate of Vishal stands / holds the field.

4. To our pointed out query, the learned A.G.P. was candid enough to concede that it is not their case that Vishal has obtained validity by practicing fraud. His case has not been reopened. He would, however, submit that there were two issues in case of *Shilpa Vishnu Thakur vs State of Maharashtra and others* reported in (2009) 5 AIR Bom R 478 i.e. affinity test and mere documentary proof is not sufficient to grant the claim of particular caste or tribe. According to him, the said issue is still pending before the Apex Court. As such, according to him, the appeal preferred against the

decision of this Court in case of **Shilpa Thakur** (supra) is still sub-judice before the Apex Court.

5. Considered the submissions advanced. Perused the order impugned herein. The petitioner claimed to have belonged to 'Thakur' Scheduled Tribe. The affinity test went against him. The fact is, however, that the petitioner's real brother, Vishal has been granted validity by the Committee on 30.01.2003 i.e. post the Act of 2000 came into force. It is not the case of the Committee that Vishal practiced fraud and obtained validity certificate.

6. Learned A.G.P. places on record the order dated 30.09.2003 wherein it has been observed that after giving full hearing to Vishal and going through documentary evidence placed before the Committee, the validity has been granted. It appears that Vishal's validity stood to scrutiny by the Scrutiny Committee and his case has not been reopened nor he seems to have practiced fraud. The Scrutiny Committee ought to have granted validity to the claim of petitioner herein. In this regard, we rely on the case of *Apoorva Vinay Nichale vs Divisional Caste Certificate Scrutiny Committee and others* reported in *2010 (6) Mh.L.J. 401*, wherein it has been observed

that, “*where the caste claim of an applicant has been scrutinized and accepted and one committee has given a finding about the validity of the caste, another committee ought not to refuse the same status to his/her blood relative who applies*”

7. In view of the same, the writ petition is allowed in terms of the following order.

### ORDER

- (i) The Writ Petition is partly allowed.
- (ii) The impugned order dated 28.06.2006 passed by respondent No.2 the Scheduled Caste Certificate Verification Committee is quashed and set aside.
- (iii) Respondent No.2 Scheduled Caste Certificate Verification Committee is directed to issue validity certificate of “Thakur” Scheduled Tribe in favour of the petitioner forthwith.
- (iv) The validity certificate to be issued to the petitioner, shall be valid until the validity certificate of Vishal remains valid.

(v) The petitioner shall not be entitled to claim equities.

(vi) No order as to costs.

8. Rule is made absolute in the above terms.

(SANDIPKUMAR C. MORE, J.)

(R.G. AVACHAT,J.)

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