

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**WRIT PETITION NO. 15 OF 2009**

Mr. Padmakar s/o Babasaheb Vishve,  
Age : 30 years, Occu.: Service as  
Assistant Inspector of Motor Vehicle at  
Regional Transport Office,  
Nanded, R/o Padhegaon, Tq. Shrirampur,  
District Ahmednagar

**.. PETITIONER**

**VERSUS**

1. The State of Maharashtra,  
Department of Tribal Development,  
Mantralaya, Mumbai-32  
Through its Secretary
2. The Scheduled Tribe Certificate Scrutiny  
Committee, Nashik Division,  
Nashik
3. The Commissioner of Transport,  
State Transport Department,  
Maharashtra State,  
Administrative Building,  
4<sup>th</sup> Floor, Bandra (East),  
MUMBAI - 400051
4. The Regional Transport Officer,  
Nanded

**.. RESPONDENTS**

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Mr. A.S. Golegaonkar, Advocate for the Petitioner  
Mr. M.B. Bharaswadkar, A.G.P. for the respondent/State  
Mr. M.S. Deshmukh, Advocate for respondent No.2  
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**CORAM : S.V. GANGAPURWALA AND  
SANGITRAO S. PATIL, JJ.**

**DATE : 16<sup>th</sup> MARCH, 2017**

**ORAL JUDGMENT : (PER : S.V.GANGAPURWAL, J):**

Rule. Rule made returnable forthwith. With the consent of the learned counsel for the parties, heard finally.

2. The tribe claim of the petitioner as belonging to "Thakur Scheduled Tribe" has been invalidated by the impugned order dated 21<sup>st</sup> November, 2008, passed by the respondent No.2-Committee. Aggrieved by the same, the present petition.

3. Mr.Golegaonkar, learned Counsel for the petitioner submits that various documents are filed on record to establish the claim of the petitioner as belonging to Thakur Scheduled Tribe. No contra evidence is on the record. All the documents establish the case of the petitioner as that of Thakur Scheduled Tribe. The learned counsel submits that real brother of the petitioner has been issued with the tribe certificate of Thakur Scheduled Tribe and his claim is validated on 31<sup>st</sup> May, 2004 by the Committee. Based on the validity of tribe claim of the petitioner's real brother, first paternal cousin of the petitioner has also been issued

tribe validity certificate by the Committee. In the case of the first paternal cousin of the petitioner's namely Pravin Ganpat Vishve, the matter had gone to the Hon'ble the Apex Court. The Hon'ble the Apex Court, it appears remanded the matter to this Court. This Court considered the validity granted to the real brother of the petitioner and directed the Committee for deciding the same favourably. Thereafter, said Pravin Ganpat Vishve has also been issued the validity certificate by the Committee. The learned Counsel submits that the aspect of area restriction does not now survive. The petitioner has also proved the affinity test.

4. The learned A.G.P. submits that 'Thakur' is recognised in upper caste and in tribes also. The petitioner could not succeed in the affinity test. Only because the entry 'Thakur' is recorded as caste of the petitioner, that does not necessarily mean that the petitioner belongs to Scheduled Tribe.

5. We have considered the submissions canvassed by the learned counsel for the respective parties. It appears from the impugned judgment that the documents relied upon by the petitioner consistently show that the

caste of his family is recorded as 'Thakur'.

6. The real brother of the petitioner has been issued with the validity certificate of Thakur Scheduled Tribe on 31<sup>st</sup> May, 2004. Based on the said validity certificate, the first paternal cousin of the petitioner namely Pravin Ganpat Vishwe has also been issued validity certificate on 30<sup>th</sup> March, 2015. So also another paternal cousin of the petitioner namely Nilesh Ganpat Vishwe has also been issued with validity certificate on 6<sup>th</sup> April, 2015. The case of Pravin Ganpat Vishwe and Nilesh Ganpat Vishwe went upto the Hon'ble the Apex Court. The Apex Court had remanded the matter to the High Court. The High Court, on 11<sup>th</sup> December, 2014, allowed the said writ petition partly and made following observations:

*"8. After having carefully perused the impugned order, we find that in the genealogy submitted by the Petitioners before the Vigilance Cell, it is set out that said Shri Ranjak Babasaheb Vishve is their first cousin. But, there is no finding recorded by the Caste Scrutiny Committee about the genuineness of the genealogy relied upon by the Petitioners. There is no finding recorded*

*by the Caste Scrutiny Committee on relationship between the Petitioners and said Shri Ranjak Babasaheb Vishve. If the Petitioners establish their relationship with the said Ranjak by satisfying the Caste Scrutiny Committee that said Shri Ranjak Babasaheb Vishve is their first cousin as alleged, the Caste Scrutiny Committee will have to favourably consider the case of the Petitioners for the grant of caste validity certificate on the basis caste validity certificate granted to said Shri Ranjak Babasaheb Vishve. Only for that limited purpose, we propose to send back the matter to the Caste Scrutiny Committee. It will be open for the Petitioners to adduce evidence before the Caste Scrutiny Committee for establishing their relationship with said Shri Ranjak Babasaheb Vishve, if necessary by examining witnesses."*

7. Considering the said observations of the High Court in the Writ Petition filed by the first paternal cousin of the petitioner i.e. Writ Petition No.6397 of 2007, the validity certificate is issued to Pravin Ganpat Vishwe and Nilesh Ganpat Vishwe. The basis for issuance of validity certificates to them, is the validity granted to the real brother of the petitioner.

8. Considering the said conspectus of the matter, there are no grounds to take a different view than what was already accepted by this Court in its decision rendered on 11<sup>th</sup> December, 2014 in Writ Petition No. 6397 of 2007, pursuant to which the validity is issued to the petitioners therein who are first paternal cousins of the petitioner.

9. In the light of the above, the impugned judgment and order dated 3<sup>rd</sup> October, 2008 passed by respondent No.2 - Committee is quashed and set aside. Respondent No.2 - Committee shall issue the validity certificate to the petitioner as belonging to "Thakur Scheduled Tribe" expeditiously and preferably within two months from today. The Rule is made absolute in the above terms. No costs.

Sd/-  
[**SANGITRAO S. PATIL**]  
**JUDGE**

Sd/-  
[**S.V. GANGAPURWALA**]  
**JUDGE**

npj/wp15-2009