

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

3 WRIT PETITION NO. 4005 OF 2012
WITH CA/12489/2013 IN WP/4005/2012

RAJENDRASINGH PUNDLIK Singh SISODIYA
VERSUS
THE STATE OF MAH AND ORS

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Advocate for Petitioner : Mr. Barlinge S.R.
AGP for Respondents: Mrs. A.V. Gondhalekar
Advocate for Respondents : Mr. A.S. Bajaj for R/3.
Advocate for Respondents : Mr. S.M. Kulkarni for R/4.

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**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.**
DATE : 31.07.2017

P.C. :-

1. After having heard both sides, we find that because the petitioner applied for issuance of a Tribe Certificate earlier (as belonging to Hindu Thakur Scheduled Tribe), that was granted by Executive Magistrate, Bhusawal on 10.05.1982 but the claim was invalidated by the Scrutiny Committee, Pune on 12.12.1991.

2. When a show cause notice was issued to him by the employer Cidco, that was challenged by the petitioner by way of writ petition no. 830/1992. Then, the petitioner was issued a tribe certificate by Executive Magistrate Shindhkehdha, District Dhule on 31.12.1992, that was forwarded for scrutiny to the Scheduled Tribe Certificate Scrutiny

Committee, Nashik. The petition was partly allowed by this Court on 14.07.2003, it set aside the order of the Pune Committee dated 12.12.1991 and remanded the matter to Scrutiny Committee Nashik for fresh consideration.

3. We have perused the papers and proceedings, including the impugned order. It was urged that this a distinguishing factor and, therefore, the order passed in writ petition no. 4575 of 2012, which otherwise covers the controversy in the writ petition will not apply.

4. We are unable to agree for the simple reason that whichever caste/tribe certificate was issued by the Competent Authority either earlier or later, the claim had to be verified in accordance with law. Once that claim was to be verified in accordance with law, it has been verified but rejected.

5. In rejecting the claim, the Scrutiny Committee discarded the certificates of validity which have been issued and copies of which are at serial nos. 14 to 17, they are issued to the petitioner's cousin (first cousin) from the paternal side. The Scrutiny Committee framed five points which are re-produced herein below:

- “1 *Whether the claim of the present applicant is proved by way of documentary evidence ?*
- 2 *Whether the claim of the applicant sustains by way of affinity test ?*
- 3 *Whether the removal of area restriction by Act No. 108 of 1976 enables the Thakur community to claim the status of Thakur Scheduled Tribe ?*
- 4 *Whether the applicant is entitled to Scheduled Tribe status as per current legal position ?*
- 5 *Whether the Validity Certificate issued to applicant's cousins precludes the Committee to decide his claim on merit ?”*

6. Point No.3 framed by the Scrutiny Committee for its consideration and point no. 5 are both identical to the writ petition no. 4575/2012.

7. Even with regard to the caste certificates issued to close relatives from the paternal side, as also the petitioner's father they have been discarded and brushed aside on the ground that both grandfather and father of the petitioner have entries in their school admission register/service record as Thakur simplicitor. The entry should have been Thakur Scheduled Tribe. Pertinently, these documents were of 05.08.1911 and 27.01.1932, both these documents which are pre-constitutional, there could not have been any entry as Thakur Scheduled Tribe.

8. We do not see why any distinction is sought to be made from

the order passed by this Court in writ petition no. 4575/2012, that order squarely applies to this case as well.

9. For the reasons set out in that judgment and order even this petition succeeds. The Scrutiny Committee's order impugned in the petition is set aside. The Scrutiny Committee will now issue the certificate of validity within two weeks from today.

10. On production of an authenticated copy of the certificate of validity, the employer shall release the retiral/terminal benefits to the petitioner.

[MANGESH S. PATIL, J.]

[S.C. DHARMADHIKARI, J.]

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