

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

**WRIT PETITION NO. 2365 OF 2013
WITH
CA/9001/15 IN WP/2365/13 WITH WP/2360/13 IN CA/7255/15 WITH
CA/16501/16 IN WP/2360/13**

Arun Balasaheb Pawar

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. S.S. Jadhavar, Advocate for petitioners.

Mr. P.A. Patil, A.G.P. for respondent - State.

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**CORAM : S.V. GANGAPURWALA AND
K.L. WADANE, JJ.
DATED : 01st MARCH, 2017**

ORDER :

1. Both these petitions are filed by brother and sister.
2. Mr. Jadhavar, learned Counsel for petitioners submits that the tribe claim of the petitioners as Thakur has been invalidated by the scrutiny committee. Learned Counsel submits that the scrutiny committee has ignored the validity certificates granted in favour of father of the petitioners, their real uncle and paternal aunt i.e. father's sister. The said validations are granted in the year 2005 – 2011. When the father has been granted validity certificate, his son and daughter needs to be given validity

certificate of the same caste. Learned Counsel submits that there is no contra evidence on record. The area restriction is also removed. The vigilance cell report is not against the petitioner. However, only by referring to some judgments of the Apex Court and this Court, the scrutiny committee invalidated the tribe claim of the petitioners.

3. Learned A.G.P. submits that upon perusal of record, it does not appear that vigilance report was submitted and considered while granting validity to the father of the petitioners, real uncle and paternal aunt of the petitioners. The committee has come to the conclusion that each case has to be decided on its own merits. The petitioners could not pass the affinity test as recorded by the committee. The documents produced by the petitioners are of recent origin. The caste recorded of the father of petitioners is Hindu in school record and in respect of real uncle his caste is recorded as Thakur and there is no mention of Scheduled Tribe in the record produced by the petitioners. The committee after considering the affinity test and other documents on record has rightly rejected the claim of the petitioners.

4. From the record it appears that the father, real uncle and paternal aunt of the petitioners have been issued with validity certificates.

In fact the committee ought to have considered the record in proper perspective while rejecting the caste claims of the petitioners and could not have rejected the claims only on the ground that each case has to be considered independently. The validity granted in favour of the father, real uncle and paternal aunt should have been taken into consideration.

5. The record in respect of validity proceedings of the father, real uncle and paternal aunt ought to have been considered by the committee before coming to the conclusion. When these documents were placed before the committee, the committee ought to have considered the record while granting validity in favour of these petitioners. It is submitted that even petitioners had filed documents in respect of their grandfather i.e. copy of the sale deed executed in the year 1955 showing his caste as Thakur. The same does not appear to have been considered by the committee.

6. Considering the aforesaid aspect, we set aside the impugned judgment and order passed by the scrutiny committee thereby invalidating the tribe claim of the petitioners and relegate the petitioners before the committee. The petitioners shall appear before the committee on 17th March, 2017. The petitioners are entitled to file additional documents, if

they choose to. Considering the fact that only arguments have to be advanced, the committee shall decide the said proceeding expeditiously and preferably within a period of three weeks from the date of appearance of petitioners. Till the validation proceedings are decided, the respondent – college in Writ Petition No. 2360 of 2013 shall not take any adverse action against the petitioner and shall not refrain the petitioners from prosecuting further studies. However, Respondent Nos. 3 and 4 in the said proceeding may take further course of action in tune with the judgment delivered by the committee in validation proceedings.

7. In view of the above, both the writ petitions are disposed of. In view of disposal of writ petitions, civil applications also disposed of.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)

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