

(1)

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

WRIT PETITION NO. 2130 OF 2019

Komal S/o Ashok Thakur,
Age-27 years, Occ. Student,
R/o Varshi, Tq. Sindkheda
Dist. Dhule

..PETITIONER

VERSUS

1. The State of Maharashtra
Department of Tribal Development
Mantralaya, Mumbai – 32.
Through its Secretary
2. The Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar Division, Nandurbar
Through its Member Secretary
3. The Sub Divisional Officer,
Shirpur Division, Shirpur
Dist. Dhule

..RESPONDENTS

WITH

WRIT PETITION NO. 2255 OF 2019

1. Sakshi d/o Dnyaneshwar Thakur,
Age – 14 years, Occ. Student.
2. Ganesh s/o Dnyaneshwar Thakur,
Age- 12 years, Occ.Student
3. Prerna d/o Dnyaneshwar Thakur,
Age – 9 years, Occ. Student

All petitioners being Minor,
through their natural guardian father-
Dnyaneshwar s/o Dagadu Thakur,
Age-41 years, Occ. Service,
R/o Somade, Tq.Sakri, Dist. Dhule

..PETITIONERS

VERSUS

1. The State of Maharashtra
Department of Tribal Development
Mantralaya, Mumbai – 32.
Through its Secretary
2. The Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar Division, Nandurbar
Through its Member Secretary
3. The Sub Divisional Officer,
Dhule Division, Dhule,
Dist. Dhule

..RESPONDENTS

Mr Sushant C. Yeramwar, Advocate for petitioners;

Mr V. S. Badakh, A.G.P. for respondent Nos. 1 & 3 in W.P.
No.2130/19

Mr A. R. Kale, A.G.P. for respondent Nos. 1 & 3 in W.P. No.2255/19

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 15th February, 2019

ORAL ORDER:

Heard learned counsel for the petitioner.

2. The petitioners are the students prosecuting their studies and are before this Court by way of present petitions. As the petitioners' claim is that they belong to "Hindu Thakur" - Scheduled Tribes and having the documents in the form of school record and certain revenue record in favour of their relatives also the service book

(3)

entries of the nearest relatives, have approached the Sub-Divisional Officer, Dhule for issuance of caste certificates in prescribed format. By order running in nearly ten pages, the Sub-Divisional Officer and the competent authority rejected the applications on the ground that the petitioners failed to produce any documentary evidence prior to 1950 and all these material documents submitted before the authority are latest documents. The competent authority and the Sub-Divisional Officer even recorded that the petitioners approached the authority with an intention to grab the benefits in the academic career and or to seek employment.

3. Being aggrieved by the order passed by the Sub-Divisional Officer, the petitioners preferred the appeals before the Scrutiny Committee and the Scrutiny Committee also in an order running in nearly more than ten pages rejected the appeals reiterating the grounds of competent authority and referring to certain circulars issued by the State Government. The Scrutiny Committee observed in the order that the residence of "Thakur" - Scheduled Tribes is not traced in Jalgaon, Dhule and Nandurbar Districts. Even Revenue Department published above mentioned fact with the habitation area of various tribes in the year 1968 and then proceeded further to observe that though in school record the caste of the petitioners and their blood relatives is shown to be "Thakur", it does not mean that

(4)

they belong to "Thakur" - Scheduled Tribes because documents do not speak one's social status as tribe where different Thakur people group existed in Maharashtra. The tenor of the order of the Committee is as if the Committee is deciding the claim of these petitioners for validation. Learned counsel submitted that this Court took a consistent view that the Committee in deciding the appeal shall not raise technical objections for dismissal of the appeal and at the time of issuance of tribe or caste certificate the authority has to be *prima facie* satisfied and this Court observed that even otherwise the said certificate has to face test of scrutiny at the time of verification by the Committee.

4. Learned counsel for the petitioners invited our attention to the order dated 23.01.2019 in a bunch of petitions placed on record at Exhibits J and N in respective petitions.

5. We find considerable merit in the submission of the learned counsel that the Committee ought to have been mindful of the fact that at the stage of deciding the appeal it is expected of the Committee to consider the material *prima facie* for issuance of certificate and such certificate is always has to stand for scrutiny and go through the test of scrutiny in validation proceedings. Learned Counsel thus, made out a case. Writ Petition is accordingly allowed

(5)

in terms of prayer clause (B).

6. Respondent No.3 Sub-Divisional Officer is directed to issue tribe certificates to the petitioners that they belong to "Thakur" - Scheduled Tribes, as early as possible and not later than three weeks from the date of order of this Court.

7. We state further that the certificates so issued by the Sub-Divisional Officer would certainly be subjected for validation by the Scrutiny Committee.

8. With above directions, writ petitions are disposed of.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

amj