

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

WRIT PETITION NO. 10687 of 2015

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Dipalee D/o Shivdas Sonawane
 @ Dipalee W/o Kishor Thakur,
 age 28 years occupation service
 R/o Nand Khurde (Kh.) Taluka Erandol Dist. Jalgaon
 at present R/o Nashik Taluka & Dist. Nashik.

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...Petitioner

Versus

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1. Scheduled Tribes Certificate Scrutiny Committee,
 Nandurbar Region, Nandurbar
 through its Member Secretary.

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2. Zilla Parishad, Nashik Dist. Nashik
 through its Chief Executive Officer

3. Panchayat Samiti, Niphad
 Taluka Niphad Dist. Nashik
 through its Block Development Officer.

...Respondents

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WITH
WRIT PETITION NO. 10689 of 2015

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Darshana D/o Pralhad Sonawane,
 age 26 years occupation service
 R/o Nand Khurde (Kh) Taluka Erandol Dist. Jalgaon
 at present R/o Nashik Taluka & Dist. Nashik

...Petitioner

Versus

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1. Scheduled Tribes Certificate Scrutiny Committee,
 Nandurbar Region, Nandurbar
 through its Member Secretary.

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2. The District Collector,
 Nashik Dist. Nashik.

3. The Tahsildar,
 Dindori Taluka Dindori Dist. Nashik.

...Respondents

*Mr. M.S. Deshmukh, Advocate for petitioner in both petitions.
Mr. S.P. Sonpawale, Asstt. Govt. Pleader for all Respondents*

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CORAM : PRASANNA B. VARALE

AND

AVINASH G. GHAROTE, JJ.

Reserved on : **18th September, 2019**

Pronounced on : **25th September, 2019**

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J U D G M E N T (Per -PRASANNA B. VARALE, J.)

1. Rule. Rule made returnable forthwith. Heard finally
15 with the consent of parties and taken up for final disposal at
admission stage.
2. By these petitions, the respective petitioners
challenge the common order dated 31st August, 2015 of
20 respondent No.1 – Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar Region, Nandurbar, rejecting the caste
claim of the petitioners.
3. The petitioners claim to belong to ‘*Thakur*’
25 Scheduled Tribe, which is notified as a Scheduled Tribe under the
Constitution (Scheduled Tribe) Order, 1950 as amended from
time to time. The petitioners had been issued the appropriate
caste certificates on 27/11/2003 and 15/11/2000, respectively,
certifying that they belonged to *Thakur* tribe, which is recognized

as a Scheduled Tribe. The petitioners are first cousins by relationship. The following dates being material, are listed as below:

Relating to petitioner in W.P. No. 10687/2015

27/11/2003	The petitioner was issued the 'Thakur' tribe certificate by the competent authority.
	While prosecuting studies, concerned Principal of the College at Nashik referred the Tribe certificate of the petitioner for its verification initially to the Scrutiny Committee at Nashik, which came to be transferred to respondent No.1.
02/01/2009	Petitioner got appointment as 'Shikshan Sevak' with respondent No.2, who also submitted the tribe certificate of the petitioner for its verification to respondent No.1.
09/08/2004 & 05/04/2014	The Vigilance Cell submitted its report dated 09/08/2004, which was forwarded to the petitioner alongwith show cause notice dated 05/08/2014.
19/04/2014	The petitioner filed her reply to the show cause notice as well as report of the Vigilance Cell.
31/08/2015	The caste claim of the petitioner was rejected by the impugned order by the Caste Scrutiny Committee/respondent No.1

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Relating to petitioner in W.P. No. 10689/2015

15/11/2000	The petitioner was issued the 'Thakur' tribe certificate by the competent authority.
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23/11/2001	The Vigilance Cell submitted its report, which as per contention of the petitioner was not forwarded to her alongwith show cause notice, which she obtained under the provisions of the Right to Information Act and consequently the petitioner could not submit her reply to the show cause notice.
28/08/2012	The Collector/respondent No.2 appointed petitioner as a Jr. Clerk from the Scheduled Tribe Category, who is still working with respondent No.3/Tahsildar, Dindori.
31/08/2015	The caste claim of the petitioner was rejected by the impugned order by the Caste Scrutiny Committee/respondent No.1

4. The Learned Counsel for the petitioner has assailed the impugned order on several grounds. It is contended that the Committee in-spite of having admitted that there were several pre-constitutional documents of blood relatives of the petitioners from paternal side showing their duly recorded caste as *Thakur*, merely on the ground of non-residence in the area, has ignored them, unmindful of the fact that the area restrictions have been done away with effect from 27/07/1977. The law as laid down in several judgments including ***Madhuri Patil Vs. Additional Commissioner, 1994(6) S.C.C. 241, Anand Vs. Committee for Scrutiny & Verification of Tribe Claims, 2012(1) S.C.C.***

113, laying down that the affinity test may be used to corroborate the documentary evidence and should not be a sole criteria to reject a claim, has not been considered in its proper perspective. The reliance placed upon the Govt. Resolution dated 31/07/1957 was unwarranted, in the face of the Amending Act 1976 removing the area restrictions. The decision making process due to non-consideration of the documents in their proper perspective was illegal.

5. The learned Counsel for the petitioners invited our attention to the documents relied upon by the petitioners, (as many as 53 documents) to buttress their claim of belonging to the *Thakur* Scheduled Tribe, which are as under:

Sr. No.	Nature of documents	Name	Caste recorded as	Date of admission/ Birth/Death	Relation with the applicant	Remarks
1	Caste Certificate	Kum. Dipalee Shivdas Sonawane	Thakur	27.11.2003	Applicant No.1	
2	School Leaving Certificate	Kum. Dipalee Shivdas Sonawane	Thakur	19.02.2002	Applicant No.1	
3	School Leaving Certificate	Kum. Dipalee Shivdas Sonawane	Thakur	01.06.1992	Applicant No.1	
4	Extract of School Admission Register	Shivdas Baburao Sonawane	Thakur	02.07.1966	Father of applicant No.1	
5	School Leaving Certificate	Shivdas Baburao Sonawane	Thakur	02.07.1966	Father of applicant No.1	
6	School Leaving Certificate	Shivdas Baburao Sonawane	Thakur	18.06.1971	Father of applicant No.1	

7	Caste Certificate	Shivdas Baburao Sonawane	Thakur	22.07.1977	Father of applicant No.1	Issued by E.M. Niphad
8	First page of service book	Shivdas Baburao Sonawane	Hindu Thakur	-	Father of applicant No.1	
9	Ration card	Shivdas Baburao Sonawane	-	-	Father of applicant No.1	
10	Identity card- Maharashtra Thakur Jamat Seva Mandal	Shivdas Baburao Sonawane	Anusuchit Jamati Thakur	-	Father of applicant No.1	
11	School Leaving Certificate	Baburao Ramji Thakur	Thakur	1927	Grand-father	
12	Death Certificate	Baburao	-	12.09.1970	Grand-father	
13	School Leaving Certificate	Anna Baburao Thakur	Hindu Thakur	/04/1952	Uncle	
14	School Leaving Certificate	Pralhad Baburao Thakur	Thakur	20/06/1958	Father of applicant No.2	
15	School Leaving Certificate	Baburao Ramji Thakur	Thakur	11.3.1921	Grand-father	
16	Affidavit (validity)	Pralhad baburao Sonawane	-	15-06-2004	Father of applicant No.2	
17.	Certificate of validity	Pralhad Baburao Sonawane	Thakur	14.06.2000	Father of applicant No.2	
18	Certificate of validity	Bhavesb Pralhad Sonawane	Thakur	14.06.2000	Real brother of applicant No.2	
19	Certificate of validity	Suhasini Pralhad Sonawane	Thakur	16.04.2004	Real sister of applicant No.2	
20	Caste Certificate	Darshana Pralhad Sonawane	Thakur	15.11.2000	Applicant No.2	
21	School Leaving Certificate	Darshana Pralhad Sonawane	Thakur (A.J.)	25.06.1997	Applicant No.2	
22	School Leaving Certificate	Pralhad Baburao Sonawane	Hindu Thakur	12.06.1967	Father of applicant No.2	
23	First page of service book	Pralhad Baburao Sonawane	Hindu Thakur	-	Father of applicant No.2	

24.	Caste Certificate	Pralhad Baburao Sonawane	Thakur	11.11.1991	Father of applicant No.2	
25.	Death certificate	Baburao-Ramji Dagadu Thakur	-	12.09.1970	Grand father of applicant No.2	
26.	Extract of School Admission Register	Darshana Pralhad Sonawane	Thakur (A.J.)	02.06.1993	Applicant No.2	
27	Birth certificate	Darshana Pralhad Sonawane	-	30.07.1988	Applicant No.2	
28	Certificate issued by the Addl. Dist. Magistrate, E. Khandesh	Rupsing Bhursing Thakur	Thakur Scheduled Tribe	19.08.1952	-	
29	Certificate of Age and Domicile, etc.	Darshana Pralhad Sonawane	-	26.08.2003	Applicant No.2	
30	Ration card	Pralhad Baburao Sonawane & family	-	-	Applicant No.2 & family	
31	Affidavit (F)	Darshana Pralhad Sonawane	Thakur	22.08.2005	Applicant No.2	
32	Identity Letter issued by the Maharashtra Adiwasi Thakur Jamat Seva Mandal	Pralhad baburao Sonawane	Thakur Anusuch-it Jamati	11.02.1999	Father of applicant No.2	
33	Residence Certificate issued by Talathi, Nandkhurd	Darshana Pralhad Sonawane	-	10.10.2012	Applicant No.2	
34	Certificate issued by Sarpanch, Nandkhurd	Darshana Pralhad Sonawane	Thakur Anusuch-it Jamati	09.10.2012	Applicant No.2	
35	Residence Certificate issued by Police Patil, Nandkhurd	Darshana Pralhad Sonawane	Thakur Anusuch-it Jamati	10.10.2012	Applicant No.2	
36.	Death extract	Hemsing Ramji Thakur	Hindu	16.04.1983	Cousin grand-father	
37.	School Admission Register	Pralhad Baburao Sonawane	Thakur	20.06.1958	Father of applicant No.2	
38	Certificate issued by the Backward Class Welfare Officer, Jalgaon	Rupsing Bhursing Thakur	Thakur Scheduled Tribe	19.08.1952	Not blood relative	

39	7/12 extract	Pralhad baburao Thakur	-	07.08.2012	Father of applicant No.2	
40	Affidavit	Pralhad Baburao Thakur	-	26.09.2012	Father of applicant No.2	
41	School Leaving Certificate	Anna Baburao Thakur	Hindu Thakur	04.06.1958	Uncle	
42	School Leaving Certificate	Anna Baburao Thakur	Thakur	26.08.1959	Uncle	
43	Caste Certificate	Anna Baburao Thakur	Thakur	22.07.1977	Uncle	
44	School Leaving Certificate	Vimalbai Baburao Thakur	Hindu Thakur	05.08.1950	Aunt	
45	School Leaving Certificate	Kusum Baburao Thakur	Hindu Thakur	13.06.1962	Aunt	
46.	School Leaving Certificate	Narayan Eknath Sonawane	Hindu Thakur	02.08.1938	Cousin uncle	
47.	Caste Certificate	Narayan Eknath Sonawane	Thakur	04.06.1978	Cousin uncle	
48	Extract of School Admission Register	Dagubai Eknath Sonawane	Hindu Thakur	20.06.1958	Cousin aunt	
49	School Leaving Certificate	Ramkrushna Narayan Sonawane	Thakur	02.06.1964	Cousin brother	
50	Affidavit(F)	Bhavesh Pralhad Sonawane	-	26.09.2012	Brother of applicant No.2	
51	Affidavit	Suhasini Pralhad Sonawane	-	26.09.2012	Sister of applicant No.2	
52	School Leaving Certificate	Rupsing Bhursing Thakur	Thakur	06.07.1943	-	Not blood relative
53	Caste Certificate	Rupsing Bhursing Thakur	Thakur	09.08.1952	-	Not blood relative.
	(Emphasis Supplied)					

6. The position of law as regards the verification of a caste certificate already issued by the competent authority, is

already settled by a catena of decisions of the Hon'ble Apex Court as well as the High Courts. The learned Counsel for the petitioners, apart from those stated above, has placed reliance upon:

- 5 (a) Judgment in Writ Petition No. 6224 of 2015 **Ravindra Pralhad Khare Vs. State of Maharashtra and others**, dated 11/07/2019 in respect of *Thakur* Scheduled Tribe,
- 10 (b) **2017 S.C.C. Online Bombay 9778, Motilal Namdeo Pawar Vs. Scheduled Tribes Certificates Scrutiny Committee**, in respect of *Thakur* Scheduled Tribe,
- 15 (c) Writ Petition No. 6142 of 2007 **Santosh Purshottam Bayaskar Vs. Scheduled Tribes Caste Certificate Scrutiny Committee**, decided on 25th April, 2019, in respect of *Thakur* Scheduled Tribe,
- (d) **2012(1) S.C.C. 113 Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and others**, in respect of *Halbi* Scheduled Tribe,
- 20 (e) Judgment in Writ Petition No. 2363 of 2013 - **Prakash Shravan Deore Vs. Scheduled Tribes Certificate Scrutiny Committee, Nashik**, decided on 22/02/2019, in respect of *Thakur* Scheduled Tribe.
- 25 (f) Judgment in Writ Petition No. 7048 of 2018 - **Ruchir Shriram Pawar Vs. State of Maharashtra and others**, decided on 2nd July, 2018, which is in respect of *Thakur* Scheduled Tribe.

30 7. On the other hand, the impugned order is supported

by Shri S. P. Sonpawale, learned Asstt. Govt. Pleader appearing for all the respondents by submitting that the same is a reasoned one, based upon consideration of all the relevant and material documents as well as the law applicable.

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8. The parameters for testing the veracity of a caste claim, have already been laid down in various judgments, some of which have been relied upon by the learned Counsel for the petitioners, as quoted above. These include the existence of pre as well as the post constitutional documents, weightage being given to pre-constitutional documents, they having higher probative value; the affinity test - focusing on the ethnological connections and anthropological traits, which are peculiar to the tribes - which has corroborative value to support the documentary evidence on record; oral testimony, amongst others.

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9. The judgments relied upon by the learned Counsel for the petitioners, as listed above, and specifically that in case of **Motilal Namdeo Pawar Vs. S.T.C.S.T., Nashik – 2017 SCC Online Bombay 9778** has very lucidly dealt with the various aspects of the matter, and, in fact, in para No. 34, expressed its anguish in respect of the approach of the Committees for verification of the Scheduled Tribes in deciding caste claims in an

adversarial manner by ignoring the settled position of law and misdirecting itself as to the factual position.

10. Mr. Sonpawale, learned Asstt. Govt. Pleader for the
5 respondents, does not dispute the exposition of law, as laid down in the above cited judgments but has not placed on record any contrary position of law. The impugned order, thus, has to be tested on the above position of law, as applicable to the facts and documents availing on record.
- 10 11. A bare perusal of the documents as listed in para 6 above, which finds place in para 5 of the impugned order, would demonstrate that pre-constitutional documents with the entry of the caste "Thakur", exists in respect of the grand-father of the
15 petitioners. The first such document is the school leaving certificate of the grand-father of the petitioners, namely, Baburao Ramji Thakur, which is dated 11/03/1921 and is at serial number 15 in the list, and records the caste as "Thakur". Another school leaving certificate in respect of the same person is at serial No.
20 11, which is of the year 1927 and records the caste as "Thakur". The chart then mentions the school leaving certificate of the father of the petitioner/Darshana dated 20/06/1968, which also mentions the caste as "Thakur". It then also refers to entry in School Admission Register of the father of the

petitioner/Darshana at Sr.No. 37 dated 20/06/1958, wherein the caste is also mentioned as "Thakur". The list also mentions about the entry at Sr. No. 42 in the School Leaving Certificate of Anna Baburao Thakur dated 26/08/1959, which records the caste as "Thakur" and so also, his caste certificate dated 22/07/1977 wherein again entry of "Thakur" is recorded at Sr.No.43 in the list. The document at Sr.No. 4 in the list, which is an extract of School Admission Register of Shivdas Baburao Sonawane, father of the petitioner/Dipalee, which is dated 02/07/1966, records the caste as "Thakur". Similar is the position in respect of documents at Sr.Nos. 5, 6, 7 & 10 in respect of father of the petitioner/Dipalee, wherein his caste is recorded as "Thakur". The other documents in the list also predominantly records the caste as "Thakur", except for a few entries, namely, at Sr.Nos. 8, 13, 23, 41, 45, 46 & 48, wherein the entry "Hindu-Thakur" is recorded.

12. The Vigilance Report dated 09/08/2004 in respect of petitioner Dipalee at page 37 of the record in Writ Petition No. 10687 of 2015 verifies and certifies the entry of the caste "Thakur" in the school records in respect of the grand-father of the petitioner, Shri Baburao Ramji Thakur, dated 11/03/1921 and the relationship of petitioner Dipalee with Shri Baburao Ramji

Thakur as of grand-father and grand-daughter. It further certifies that the customs, traits, as verified in the home inquiry, were in consonance with that of 'Thakur' tribe. The report, therefore, recommends the grant of a certificate to petitioner Dipalee. As
5 against this, the Research Officer vide his handwritten note dated 31/07/2013, in merely six lines, comes to the conclusion that the claim of the petitioner is not in consonance with the customs and traits of the 'Thakur' Scheduled Tribes.

10 13. Similar is the position in respect of the Vigilance Report of petitioner Darshana Pralhad Sonawane in Writ Petition No. 10689 of 2015, which is at page 44 thereof, in which the School Entry Register of her grand-father Baburao Ramji Thakur of 1927 has been examined, which has the entry 'Thakur'.

15 14. In the backdrop of the above, a perusal of the impugned order demonstrates that to turn down the caste claim of the petitioners, the Scrutiny Committee has relied upon data collected by the Vigilance Cell, on the basis of which a chart has
20 been prepared, as listed in para 3, page 9 to 24 of the impugned order, to contend that an entry of "Hindu Thakur" in the record would be enough to deny a claim of belonging to the Scheduled Tribe 'Thakur', as such, an entry would demonstrate the non-genuineness of the claim. The Committee then at page 24 of the

impugned order lists the surnames of the so called genuine Scheduled Tribe 'Thakur-44' and their locations, all of which list their caste as "Hindu Thakur" and states that it is very important to verify whether the applicants prove their claim as belonging to 'Thakur', Scheduled Tribe, listed at serial No. 44. It further states that tribe 'Thakur' appearing in the documents of the petitioners does not clearly distinguish the social status of the incumbents. It then laments that as a result of removal of area restriction, many non-tribal persons having synonymous nomenclature, who are socially, culturally and ethnically entirely different from each other, have started claiming status of 'Thakur' Scheduled Tribe. It then embarks on a systematic wholesale slaughter of the documents filed by the petitioners, which has to be read so as to be bedazzled by its absurdity. Pre-constitutional documents have been discarded for no reason whatsoever, post constitutional documents also have been discarded for no reason whatsoever, validity certificates in respect of father, brother and sister of the petitioner Darshana have also been discarded in light of discussion made in issue No.7, as against which issue No.7 only says 'What order ? - As per final order given below', which actually is an indicature of the mechanical manner, in which the caste claims are being dealt with by the Scrutiny Committee. A perusal of the impugned order further demonstrates that the

Caste Scrutiny Committee has indulged into an exercise, which can only be termed as adversarial in nature, which is indicated from the nature of judgments quoted in the impugned order without reference to the documents or the entries, as contained therein. In-spite of the admitted position, which is to the knowledge of the Caste Scrutiny Committee regarding the position, reiterated time and again by the High Court, which is reflected from the judgments as relied upon by the learned Counsel for the petitioner, stereotype reasoning has been given by conveniently ignoring the series of decisions, which have negatived the contentions raised in the impugned order for discarding the pre-constitutional documents.

15. It was at-least expected from the Caste Scrutiny Committee that each document listing the caste in respect of the ancestors of the petitioner, should have been properly considered and dealt with and individual reasons ought to have been given as to why the same was not being relied upon or held to be credible. A perusal of answer to issue No.1 at paras 4 to 8 in the impugned order, demonstrates that all these documents have been swept aside with a broom, without any thought for its consequences, only on some preconceived notions based upon an unfounded fear on part of the Committee of benefits being

taken by persons, who may not be entitled to the same. Here, it would be trite to point out that the chart prepared by the Committee itself as listed in page 25 of the impugned order listing surnames of genuine scheduled tribe 'Thakur' - 44, contains the entry 'Hindu Thakur' against all the 21 entries therein, which would demonstrate that the apprehension of the Scrutiny Committee about pseudo Scheduled Tribes obtaining benefits is totally unfounded. Had it been otherwise, the entry in the caste column of the table at page 24 of the impugned order would not have mentioned "Hindu Thakur". Thus, it is a great contradiction on part of the Scrutiny Committee to say that a "Hindu-Thakur" with the surnames as listed in column 5 therein, would be a genuine Scheduled Tribe 'Thakur' within the entry 44 for the reason of his location in the Taluka of Igatpuri and Tryambakeshwar, as listed therein, as against which a person in whose school leaving certificate of the year 1921, the entry 'Thakur' is listed, would not be a genuine Scheduled Tribe 'Thakur' - 44. Thus, the entire reasoning of the Scrutiny Committee is totally convoluted and cannot stand to reason at all. This is more so, in light of the position that the area restrictions have already stood removed as far back as 1976 and the theory of migration has already become an accepted fact.

16. A perusal of the impugned order further demonstrates that it does not give any logical reason for differing from the Vigilance Committee Report nor does the note of the Research Officer inspire any confidence as it does not indicate of having
5 taken into consideration the change which time and migration would have upon the traits and customs being practiced by a person. Such a pedantic approach is not expected from a person, who is appointed as a Research Officer, who cannot be oblivious to the changes, which may be effected upon by migration, time
10 and assimilation of the person in the community in which a person resides.

17. The documents listed in the chart in para 6 above, lead to a irresistible conclusion, that the common ancestor of the
15 petitioners, namely, Baburao Ramji Thakur, belonged to the caste "Thakur", which later-on came to be notified as a Scheduled Tribe. The relationship between the petitioners and their grandfather, namely, Baburao Ramji Thakur, has been established by the Vigilance Committee Report. The Caste Scrutiny Committee
20 does not in its impugned order dispute the genuineness of the documents, as listed in para 6 above, or for that matter, the entries made therein, or the relationship, all of which lead to an irresistible conclusion that the petitioners belong to the

Scheduled Tribe "Thakur" and we hold as such.

18. Thus, considering the position as availing from the record and specifically the entries, as listed in the chart at para 6 above, which entries are based upon documents, verified and certified by the Vigilance Committee, we find that the impugned order cannot be sustained on the touchstones of the law as applicable. We, therefore, quash and set aside the impugned common order dated 31/08/2015 passed by the respondent No.1/Caste Scrutiny Committee, Nandurbar Region, Nandurbar, and hold that the petitioners belong to the Scheduled Tribe "Thakur". We, therefore, direct the Scheduled Tribes Certificate Scrutiny Committee, Nandurbar, to forthwith issue the certificate of validity in favour of both the petitioners.

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19. Rule is made absolute in the above terms.

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(AVINASH G. GHAROTE, J.) (PRASANNA B. VARALE, J.)

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