

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

WRIT PETITION NO. 5621 OF 2020

Aaishwarya d/o Sambhaji Thakur  
Age 19 years, Occu. Student,  
R/o Plot No.11, Gat No. 344,  
Khote Nagar, Pimprala Shivar,  
Indranil Society, Jalgaon,  
Taluka and District Jalgaon

..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

..Respondents

Mr S.C. Yeramwar, Advocate for petitioner  
Mr A.A. Jagatkar, A.G.P. for respondents no.1 and 2

**CORAM : S.V. GANGAPURWALA AND  
SHRIKANT D. KULKARNI, JJ.**

**DATE : 29<sup>th</sup> September 2020**

**ORAL JUDGMENT :**

1. Rule. Rule made returnable forthwith. With the consent of the learned Counsel for the parties, the matter is taken up for final disposal at admission stage.
2. The tribe claim of the petitioner as belonging to Thakur – Scheduled Tribe is invalidated. Aggrieved thereby, the present Writ Petition.
3. Mr Yeramwar, learned Counsel for the petitioner submits that on wrong premise, the Committee discarded the validity certificates issued in favour of the father and real uncle of the petitioner. The tribe claims of the father and real uncle of the petitioner were negated by the Committee. Father of the petitioner – Sambhaji filed Writ Petition challenging the

judgment of the Scrutiny Committee bearing Writ Petition No. 954 of 1998. This Court, under judgment and order dated 16.12.2004, allowed the Writ Petition and directed the Committee to issue validity certificate to the father of the petitioner of Thakur – Scheduled Tribe. On the basis of the said judgment, this Court also allowed the Writ Petition bearing No. 7182 of 1998, filed by the real uncle of the petitioner vide judgment and order dated 19.12.2005, directing the Committee to issue validity certificate in favour of the real uncle of the petitioner. The judgments of this Court are ignored. There is not a single contra entry.

4. Learned A.G.P. submits that the entry in respect of the paternal relatives of the petitioner is of Hindu Thakur and not Thakur – Scheduled Tribe. The caste certificates have been issued to the father and uncle of the petitioner by the Executive Magistrate at Sangli. He was not authorised to issue the caste certificates as they were residents of Jalgaon district. The learned A.G.P. submits that the petitioner could not prove the affinity test. The relatives of the petitioner belong to Bramhabhat community. All these aspects have been considered by the Committee and the Committee has rightly negated the case of the petitioner.

5. We have considered the submissions canvassed by the learned Counsel for the parties. We have also gone through the record and proceedings. The relation of the petitioner with that of his father Sambhaji, real uncle Mukesh is not disputed. The relationship of the grandfather of the petitioner Kadu is also not disputed. The school record of the grandfather of the petitioner is of year 1958. It records caste as Thakur. In the school record of the father of the petitioner, real uncle of the petitioner the caste is recorded as Thakur. The petitioner has also submitted the school record of the great grandfather of the year 1922.

6. We do not find a single contra entry in respect of the paternal relatives of the petitioner. All entries appearing in the school record and the service book of the petitioner's paternal relatives including father and grandfather of the petitioner are of Thakur.

7. Moreover, this Court in case of the father of the petitioner Sambhaji set aside the judgment of the Scrutiny Committee invalidating the caste claim of the father of the petitioner as Thakur – Scheduled Tribe and directed the Committee to issue validity certificate to the father of the petitioner of Thakur – Scheduled Tribe. Based on the said judgment, this Court also directed the Committee to issue validity certificate to the real uncle of the petitioner namely Mukesh. The said judgments have attained finality. The affinity test is not a litmus test as is held in case of **Anand Katole Vs. Committee for Scrutiny and Verification of Tribe Claim** reported in **2011 (6) Mh.L.J. (S.C.) 919**.

8. In light of the above, impugned judgment and order passed by the Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall issue validity certificate to the petitioner of Thakur -Scheduled Tribe immediately.

9. Rule is accordingly made absolute. No costs.

10. The record is returned back to the learned A.G.P.

( SHRIKANT D. KULKARNI, J.)

( S.V. GANGAPURWALA, J.)

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