

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

WRIT PETITION NO.7723 OF 2020

**SANTOSHKUMAR MADHAVRAO THAKUR
VERSUS
SCHEDULED TRIBE CERTIFICATE SCRUTINY COMMITTEE,
NANDURBAR**

...

Advocate for Petitioner : Mr. Digambar B. Shinde
AGP for Respondent : Mr. S. B. Pulkundwar

WITH

WRIT PETITION NO. 7224 OF 2020

**AJAY SANTOSH THAKUR
VERSUS
UNION OF INDIA AND ANOTHER**

...

Advocate for Petitioner : Mr. Digambar B. Shinde
Advocate for Respondent No.1 : Ms. Sudha Chintamani
AGP for Respondent – State : Mr. S. B. Pulkundwar

...

**CORAM : S. V. GANGAPURWALA AND
B. U. DEBADWAR, JJ.**

DATE : 20th NOVEMBER, 2020

PER COURT :

1. The petitioner in both the writ petitions are father and son respectively. Tribe claim of the petitioners, as belonging to 'Thakur' scheduled tribe, are invalidated.

2. The petitioners rely on the validity certificate issued in favour of *Jayshree* Madhukar Thakur and Shailesh Madhukar Thakur. The tribe claim of *Jayshree* was invalidated by the

committee. She filed Writ Petition No. 2206 of 1994 before this Court. This Court under its judgment and order dated 20-07-1994, allowed the Writ Petition No. 2206 of 1994 of *Jayshree* Madhukar Thakur, thereby set aside the order passed by the Scrutiny Committee and directed to issue validity certificate to the said Jayshree as belonging to 'Thakur' scheduled tribe. Shailesh Madhukar Thakur is issued with the validity certificate by the Additional Commissioner, Tribal Development, Nashik, in Appeal No. 154 of 1989.

3. The contention of Mr. Pulkundwar, learned AGP predominantly is that the petitioners do not belong to the area of districts where the Thakur community originates and for that purpose, he relies on the judgment delivered by the Division Bench of this Court in Writ Petition No. 8567 of 2018, dated 07-10-2019. According to the respondents, the petitioners have also failed in the affinity test.

4. From the judgment of the Committee, we do not find that the Committee has disputed the relation of petitioner with *Jayshree* and Shailesh. They are paternal relatives. They appear to be second degree cousins. The committee observed that the High Court in case of *Jayshree* has allowed the petition on the basis of the judgment in appeal in case of her brother Shailesh.

5. The judgment of the High Court in case of *Jayshree* directing to issue caste validity certificate of Thakur scheduled tribe holds the field. It is not for the Committee to sit over the judgment of this Court. The Committee, of course, could have taken steps for review of the judgment in case of *Jayashree*, but has not done so and the judgment in case of *Jayashree Madhukar Thakur* delivered by the Division Bench of this Court in Writ Petition No. 2206 of 1994 filed by her is holding the field.

6. Moreover, the relationship of *Jayshree* with the petitioner as paternal cousin is not disputed. The judgment of the High Court in case of *Jayshree* will have to be followed. We do not find any contra evidence on record right from 1936. The school record in the case of the petitioner, his father, grandfather appear as Thakur. The list is reproduced as under :-

Sr. No.	Nature of documents	Name	Caste recorded as	Date of admission / Birth / Death	Relation with the applicant	Remarks
1.	Caste Certificate	Santosh Kumar Madhavrao Thakur	Thakur	5.1.2002	Self	
2.	School Leaving Certificate	Santosh Kumar Madhavrao Thakur	She. Tra. (Thakur)	31.7.1979	Self	
3.	An extract of school admission register	Santosh Kumar Madhavrao Thakur	She. Tra. (Thakur)	31.7.1979	Self	

4.	Birth certificate	Santosh Kumar Madhavrao Thakur	Hindu	4.10.1974	Self	
5.	School Leaving certificate	Santosh Kumar Madhavrao Thakur	S.T. Thakur	24.6.1988	Self	
6.	School Leaving Certificate	Santosh Kumar Madhavrao Thakur	S.T. Thakur	6.9.1993	Self	
7.	First page of service book	Santosh Kumar Madhavrao Thakur	S.T. Thakur	-	Self	
8.	School Leaving Certificate	Madhavrao Baburao Thakur	Thakur	1.10.1936	Father	
9.	An extract of school admission reg.	Madhavrao Baburao Thakur	Thakur	1.10.1936	Father	
10.	First page of service book	Madhavrao Baburao Thakur	Thakur (Hindu)	-	Father	
11.	School Leaving Certificate	Tarabai Madhavrao Thakur	Thakur	3.7.1976	Sister	
12.	School Leaving Certificate	Chindhu Baburao Thakur	Thakur	1.9.1919	Paternal Uncle	
13.	School Leaving Certificate	Pundalik Baburao Thakur	Thakur	6.8.1929	Paternal cousin	

7. In light of the above, more particularly considering the facts of the case, in the absence of contra evidence and the judgment of this Court in the case of paternal cousin of the petitioner *Jayshree Thakur* in Writ Petition No. 2206 of 1994, dated

20-07-1994, we find no reason to disbelieve the petitioners' claim as 'Thakur' scheduled tribe. In the result, we allow the petition and pass the following order.

ORDER

1. The impugned judgments are quashed and set aside.
2. The Scrutiny Committee shall issue validity certificate to the petitioners of Thakur, Scheduled Tribe, immediately.
3. The writ petitions are disposed of. No costs.

(B. U. DEBADWAR, J.)

(S. V. GANGAPURWALA, J.)