

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

WRIT PETITION NO. 2465 OF 2021

Gurav s/o Gajanan Shinde, Age .. **PETITIONER**
17 years (Minor), Occ. Student,
u/g of father viz. Gajanan
Dasrao Shinde, Age 44 years,
Occ. Service, R/o. A/P Pethwadaj,
Tq. Kandhar, District Nanded

VERSUS

1. The State of Maharashtra, .. **RESPONDENTS**
Department of Tribal Development
Mantralaya, Mumbai-32, Through
its Secretary
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad, Through
its Member Secretary

WITH

WRIT PETITION NO. 2467 OF 2021

Devidas s/o Ramesh Shinde, Age .. **PETITIONER**
19 years, Occ. Student,
R/o. A/P Pethwadaj,
Tq. Kandhar, District Nanded

VERSUS

1. The State of Maharashtra, .. **RESPONDENTS**
Department of Tribal Development
Mantralaya, Mumbai-32, Through
its Secretary
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad

Division, Aurangabad, Through
its Member Secretary

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Mr. Sushant C. Yeramwar, Advocate for the petitioners in both the Writ
Petitions.

Mr. P. S. Patil, A.G.P. for the respondents in both the Writ Petitions.
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**CORAM : S.V. GANGAPURWALA
& R.N. LADDHA, JJ.**

DATE : 3rd DECEMBER, 2021

O R D E R: PER R. N. LADDHA, J.

The tribe claim of the petitioner-Gaurav (Writ Petition No.2465 of 2021) and the petitioner Devidas s/o Ramesh Shinde (Writ Petition No.2467 of 2021) came to be rejected by the respondent Scrutiny Committee vide impugned order dated 29th January, 2021.

2. Mr. Sushant C. Yeramwar, learned counsel for the petitioners submits that the petitioners are exploring possibility of admission to the professional course. He submits that the real paternal uncle of the petitioners, namely Nagnath Dasrao Shinde and the cousin brother of father of the petitioners namely Uttam Hari Shinde are issued validity certificate of 'Thakur' Scheduled Tribe.

According to the learned counsel for the petitioners it is mandatory to issue Caste Validity Certificate if the validity is already issued to blood relatives of the petitioners. Reliance is placed on the judgment of the Honourable Supreme Court in the case of *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee and others, reported in, 2010 (6) Mh.L.J. 401*. It has been submitted that the Caste Validity Certificates produced on record of blood relatives have been overlooked.

3. The judgment of the Hon'ble Supreme Court in the case of *Anand Vs. Committee for Scrutiny and Verification of Tribe Claims, reported in, AIR 2012 SC 314* is relied upon to submit that the affinity test is not litmus test for establishing the link of the petitioners with a scheduled tribe.

4. On the other hand, the learned A.G.P appearing for respondents has submitted that the vigilance report giving all the details regarding social, cultural, anthropological traits, characteristic and traditions have been considered properly by the respondent Committee. He further submits that the validity certificates have been obtained by the near relations of the petitioners by suppressing or

withholding material facts from the Committee. There are many contra entries, which were suppressed while validity was issued to the blood relatives of the petitioners.

5. The learned counsel for the petitioners submits that apart from their own documents, the petitioners had produced the school record of the blood relatives wherein caste is recorded as 'Thakur'. The petitioners had also produced land records in the form as Khasra Patrak of the year 1954, National Register of Citizens of the year 1951, Lawni Patrak of 1349 Fasli i.e. of the year 1939 to substantiate their claim. According to the learned counsel for the petitioners, as per the practice prevailing at the relevant time, the caste 'Thakur' was mentioned in place of their surname. According to the learned counsel, all these land revenue documents did not have a caste column and as such, the documents could not be considered as misdirected itself in law. It is no doubt, true that there is no Caste-Tribe column in these documents. The very fact, however, that the persons are identified by the word 'Thakur' which is Notified Scheduled Tribe would by itself be a strong factor in favour of the petitioners. All these aspects are highlighted in the case of **Shri Prasad s/o Sakharam Pawar Vs. The State of Maharashtra and Others in Writ Petition No.4514 of**

2002 decided on 18 November 2003.

6. The relationship of the petitioners with the validity holders as claimed by them is not disputed. There are paternal relatives of the petitioners, who are issued with the validity certificates of “Thakur Scheduled Tribe”. The same is relevant fact. The affinity test is not litmus test for establishing the link of the petitioners with a scheduled tribe as enunciated by the Honourable Supreme Court in the case of *Anand* (supra). Area restriction has been removed pursuant to the presidential Order of Scheduled Tribes (Amendment) Act, 1976. In this context, the reliance can be placed upon the ruling of the Hon’ble Supreme Court in the case of *Palaghat Jila Thandan Samuday Sanrakshan Samiti and Anr. Vs. State of Kerala and Anr, reported in, (1994 (1) SCC 359.*

7. In view of the above, we pass the following Order:

ORDER

- I. The Committee shall issue the validity certificate to the petitioners of Thakur Scheduled Tribe immediately.
- II. The said validity certificates will be subject to the

decision that would be taken by the Committee in the proceedings re-opened of the validity holders relied by the petitioners.

III. Writ Petitions accordingly stand disposed of. No costs.

R. N. LADDHA, J.

S. V. GANGAPURWALA, J.

SRM/3/12/21