

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

936 WRIT PETITION NO.4948 OF 2021

DNYANESHWAR NILOBA SHINDE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

...

Advocate for Petitioner: Mr. A. S. Golegaonkar

h/f. Mr. Golegaonkar Madhur A.

AGP for Respondents No. 1 to 3:

Mr. S. B. Pulkundwar

...

AND

...

WRIT PETITION NO.4952 OF 2021

NAMDEO NILOBA SHINDE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

...

Advocate for Petitioner: Mr. A. S. Golegaonkar

h/f. Mr. Golegaonkar Madhur A.

AGP for Respondents No. 1 to 3:

Mr. S. B. Pulkundwar

**CORAM: S. V. GANGAPURWALA &
S. G. DIGE, JJ.**

DATE: 07th DECEMBER, 2021

PER COURT:

1. The tribe claims of the Petitioners of
Thakur, Scheduled Tribes are invalidated.

2. Mr. Golegaonkar, learned Counsel for the
Petitioners submits that since the year-1948 the

school record of the Petitioners' grandfather, cousin grandfather and all paternal relatives tribe is recorded as Thakur. Their is not a single contra entry. One of the paternal cousin of the Petitioners namely Ankush S/o. Balu Shinde has been issued with the validity certificate under the orders of this Court dated 18.12.2020 in Writ Petition No. 14581 of 2019. The learned Counsel submits that in case of Ankush S/o. Balu Shinde, invalidation of Ashwini D/o. Datta was also the subject matter of consideration. According to the learned counsel, the affinity test is not the litmus test. Reliance is placed on the Judgment of the Apex Court in case of **Anand V/s. The Committee for Scrutiny and Verification of Tribe Claims and others** reported in (2012) 1 SCC 113.

3. Mr. Patil, learned Additional Government Pleader submits that, though, invalidation of Ashwini D/o. Datta was considered by the Committee while invalidating the tribe claim of Ankush S/o. Balu Shinde in the Writ Petition filed by Ankush S/o. Balu Shinde and decided by this Court under

order dated 18.12.2020 the factum of invalidation of the Ashwini D/o. Datta was not considered while delivering the Judgment. It is further submitted that one of the cousin grandfather Dnyanba; his name is mentioned in the *Khasra Patrak* as Dnyanba B. Thakar, meaning thereby, that, he represented to be belonging to Thakar and not Thakur. The Petitioners failed in the affinity test.

4. The vigilance has verified the documents relied by the Petitioners. The same is reproduced as under-

अ. क्र.	प्रवेश क्रमांक	विद्यार्थ्याचे नाव	अर्जदार क्र. ०१ शी नाते	जातीची नोंद	व्यवसाय	प्रवेश दिनांक
१	११६	प्रल्हाद ज्ञानबा शिंदे	चुलत चुलता	ठाकूर	शेती	०४/०८/१९५९
२	१९८	मनकर्ण पांडुरंग शिंदे	आत्या	ठाकूर	शेती	११/०७/१९६३
३	०७/९६	निळोबा पांडुरंग शिंदे	वडील	ठाकूर	शेती	२२/०६/१९६८
४	१७/१८५	दत्ता ज्ञानबा शिंदे	चुलत चुलता	ठाकूर	शेती	१६/०९/१९६९
५	५६/२९९	नंदा पांडुरंग शिंदे	आत्या	ठाकूर	शेती	२२/०७/१९७२
६	३४५	भारत पांडुरंग शिंदे	चुलता	ठाकूर	शेती	०४/०९/१९७९
७	१२७५	नामदेव निळोबा शिंदे	अर्जदार क्रमांक ०२	ठाकूर	शेती	१३/०६/२००५
८	१४१४	ज्ञानेश्वर निळोबा शिंदे	अर्जदार क्रमांक ०१	ठाकूर	शेती	१८/०६/२००७

5. It would appear that all the documents consistently records tribe as Thakur. Not a single contra entry exists. The paternal cousin namely Ankush S/o. Balu Shinde is issued with the validity certificate under the orders of this Court dated 18.12.2020 in Writ Petition No. 14581 of 2019. The same would be a relevant fact. In the said case the Committee had invalidated the tribe claim of Ankush S/o. Balu Shinde considering the invalidation of Ashwini D/o. Datta. However, in the Judgment of this Court it appears that the said factor is not considered.

6. Be that as it may, considering the fact that not a single contra entry exists and keeping in mind the invalidation in case of Ashwini D/o. Datta and other paternal relatives, so also, considering that the paternal relatives has been granted validity, we pass the following order.

7. The Committee shall issue validity certificates to the Petitioners of Thakur, Scheduled Tribe.

8. The said validity certificates shall be subject to the decision that may be taken by the Committee in the validation proceedings reopened of the validity holders relied by the Petitioners.

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

[S. G. DIGE, J.]

[S. V. GANGAPURWALA, J.]

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