

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

WRIT PETITION NO.13569 OF 2021

Shreyas s/o. Mahendra Thakur,
Age-19 Years, Occu. Student,
R/o.16, Prabhashali, Telephone Colony,
Deopur, Dhule, Tq. & Dist. Dhule. .. **PETITIONER**

VERSUS

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai-32
Through its Secretary.
2. The Scheduled Tribe Caste Certificate
Scrutiny Committee,
Nandurbar Division, Nandurbar
Through its Member Secretary.
3. The Commissioner & Competent Authority,
State Common Entrance Test Cell,
Maharashtra State, 8th Floor,
New Excelsior building, A.K.Nayak
Marg., Fort, Mumbai – 400 001
4. The Principal,
Institute of Chemical Technology,
Nathalal Parekh Marg, near Khalsa
College, Matunga,
Mumbai-400 019 .. **RESPONDENTS**

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Mr.S.C.Yeramwar, Advocate for the petitioner.
Mr.A.R.Kale, AGP for the respondent – State.

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

DATE : 08.12.2021

JUDGMENT [Per : S.G.Dige, J.] :

1] Rule. Rule made returnable forthwith, heard finally with the consent of the parties.

2] The petitioner is seeking directions to declare that the petitioner belongs to 'Thakur – Scheduled Tribe'. The petitioner has relied upon the certificate of caste validity of his real brother, Amey Mahendra Thakur and other 18 close blood relatives to whom the caste certificates of Thakur Scheduled Tribe have been issued by the Scrutiny Committee and by order of this Court. The petitioner is also seeking relief against the Respondent No.3 – The Commissioner & Competent Authority and Respondent No.4 – the Institute of Chemical Technology.

3] The brief facts of the case are as under:

a] The Sub Divisional Officer, Dhule, issued a caste certificate in favour of the petitioner as belonging to 'Thakur Scheduled Tribe' on 06.07.2020. The petitioner's College where he was taking education referred his caste certificate to Respondent No.2 – Scrutiny Committee for

verification along with genealogy of family of the petitioner and chart showing caste validity certificates issued in favour of his real brother and 18 close blood relatives. The petitioner's proposal is sent on 27.01.2021 to Scrutiny Committee for verification.

b] During pendency of the caste validation proceedings of the petitioner, the petitioner had appeared for MHT-CET-2021 Examination for getting admission to Engineering Course from Scheduled Tribe category. The petitioner has successfully passed in the said examination and held eligible for admission in 1st Round of Centralized Admission Process. Thereafter, the petitioner has been provisionally allotted the Chemical Engineering Course in respondent no.4 – College subject to production of the caste validity certificate till 07.12.2021 up to 3.00 p.m., failing which the admission of the petitioner will be treated from General Category. The date is subsequently extended.

c] As the respondent no.4 College has directed the petitioner to produce the caste validity certificate on or before 07.12.2021, therefore, the petitioner submitted application on 19.07.2021 to the Respondent no.2 – Scrutiny Committee for taking decision on the proposal submitted for validation of his caste claim expeditiously. So also, blood relative of the petitioner, Shri Prakash Hiralal Bhamare, has also submitted applications on 03.05.2021,

31.07.2021, 28.08.2021, 14.09.2021, 06.10.2021 and 09.11.2021 to the Respondent no.2 – Scrutiny Committee as well as respondent no.1 authority for deciding the caste claim of the petitioner and other close relatives of the petitioner expeditiously, which were pending before respondent no.2 – Scrutiny Committee.

d] On 02.07.2021 and 18.10.2021, the respondent no.1 and the Joint Director of Tribal Research and Training Institute, Pune directed respondent no.2 - Scrutiny Committee to decide the tribe claim of the petitioner so also similarly situated close blood relatives of the petitioner expeditiously, however, till filing of this petition respondent no. 2 – Scrutiny Committee has not taken any decision on the tribe claim of the petitioner. Hence this Writ Petition.

4] Heard learned counsel for the petitioner and the learned AGP for the respondent – State.

5] Learned counsel for the petitioner submits that the real brother of the petitioner, namely, Amey Mahendra Thakur has been granted caste validity certificate of Thakur Scheduled Tribe under the order of this Court vide judgment and order dated 21.10.2021 in Writ Petition No.9322 of 2018. Learned counsel further submits that the petitioner has passed MHT-CET-2021 Examination and he has been held eligible for admission in 1st Round of

Centralized Admission Process from Scheduled Tribe Caste. However, the proceeding of caste validity certificate of the petitioner is pending with the respondent no.2 - Scrutiny Committee since January, 2021. The College has directed the petitioner to produce caste validity certificate on or before 07.12.2021, if the petitioner failed to produce the same, then, he will be considered from general category. The respondent no. 2 – Committee has not taken any decision on proposal of the petitioner till today.

6] Learned counsel for the petitioner has relied upon the judgments of this Court in the cases of **Bharat Gulabsingh Thakur Vs. State of Maharashtra & Anr.** in Writ Petition No.54 of 2016, decided on 06.05.2016, **Prakash Hirlal Bhamare Vs.The State of Maharashtra & others** in Writ Petition No.6972 of 2014 along with connected Writ Petitions, decided on 27.07.2017, **Neeta Divan Bhamre Vs. State of Maharashtra & Ors.** in Writ Petition No.2153 of 2007, decided on 26.09.2017, **Amey Mahendrasingh Thakur Vs. State of Maharashtra & others** in Civil Writ Petition No.9322 of 2018, decided on 21.10.2021, **Abhijeet Vijaykumar Suryawanshi & another Vs. The State of Maharashtra & another** in Writ Petition No.10239 of 2019, decided on 6th September, 2019, in the case of **Jayashri Kautikrao Suryawanshi Vs. The State of Maharashtra & another** in Writ Petition No.11656 of 2019, decided on 24th September, 2019 and in the case of **Apoorva Nichale Vs.**

Divisional Caste Certificate Scrutiny committee No.1 & Ors.
reported in [2011] 2 Bom.C.R. 824.

7] Learned AGP submits that the proceeding of tribe claim of the petitioner is pending before the respondent no. 2 – Committee and the Committee would decide the proceedings on its own merit.

8] We have considered the submissions made by the learned counsel for the parties. In the present case, there is no dispute that certificate of caste validity is issued in favour of real brother and 18 close relatives of the petitioner. Out of these caste certificates, five caste validity certificates have been granted under the orders of this Court and remaining caste validities are given by the Caste Scrutiny Committee by following due procedure. The petitioner is taking education in respondent no.4's College under category of Scheduled Tribe and he requires caste validity certificate for his education purpose. The proposal of his caste validity is pending before respondent no.2 Scrutiny Committee since January, 2021. The petitioner has given an application to the respondent no.2 - Scrutiny Committee to decide his caste validity certificate expeditiously but till date it has not been decided. If the validity of caste certificate of petitioner is not given within time, the education career of the petitioner would come in peril.

9] The caste claim of the real brother of the petitioner namely Amey Thakur was invalidated by the Scrutiny Committee. Therefore, the real brother of the petitioner had preferred Writ Petition No. 9322 of 2018 before this Court at Principal Seat and the Division Bench at Principal Seat under order dated 21st October, 2021 has allowed the said Writ Petition and directed the Scrutiny Committee to issue caste validity certificate in favour of the petitioner therein as “Thakur” Scheduled Tribe. While allowing said Writ Petition, the Division bench of this Court at Principal Seat has considered all relevant aspects of the matter so also all the documents and the judgments of the Hon’ble Supreme Court as well as this Court.

10] The Division Bench of this Court in the case of ***Neeta Divan Bhamre*** [*supra*] has held that petitioner’s real brother is already granted caste validity certificate as belonging to ‘Thakur – Scheduled Tribe’. Hence that Petition was allowed.

11] The Division Bench of this Court in Writ Petition No.11656 of 2019 in the case of Jayashri Kautikrao Suryawanshi vide order dated 24th September, 2019 [*supra*] granted caste validity of Thakur Scheduled Tribe to petitioner therein as caste validity was granted to his real brother.

12] The Division Bench of this Court in Writ Petition No.10239 of 2019 in the case of Abhijeet Vijaykumar Suryawanshi [*supra*] granted the caste validity certificate to petitioner therein as caste validity certificate was issued to petitioner's father. In the said Writ Petition, the petitioner's validity claim was pending with the Caste Scrutiny Committee. The facts of the said case are identical to the case of the present petitioner.

13] In the present case, petitioner's caste claim is pending with respondent no.2 – Scrutiny Committee since 11 months. Various applications were given to respondent no.2 – Scrutiny Committee to decide caste claim expeditiously, inspite of that no action is taken by respondent no.2. The petitioner requires caste validity certificate for his education purpose. We are of the view that, respondent no.2 – Committee ought to have taken steps to decide caste claim of the petitioner in 11 months. Respondent no.2 – Committee can not sit over the decision as the Appellate Authority and can not over look the caste validity certificates given to petitioner's real brother under the orders of this Court and his 18 close blood relatives. The validities of said certificates are given by following due and proper procedure. This Court in the case of **Apoorva Nichale** [*supra*] has held that when the caste claim of the applicant has been scrutinized and accepted by Scrutiny Committee validating his caste claim, it should be accepted by other

Caste Scrutiny Committee while dealing with the caste claim of applicant's another blood relatives. In this context, the following paragraph of Apoorva Nichale [supra] are quoted as under:

“4. We have considered the matter and we are of the view that the petitioner's caste claim that she belongs to Kanjar Bhat – Nomadic Tribe ought to have been accepted by the Committee merely on the basis that identical caste claim of her sister that she belongs to Kanjar Bhat has been allowed by the Committee, even apart from the Government Resolution. We are of the opinion that the guidelines provided by the said Govt. Resolution are sound and based on sound principles. It would indeed be chaotic otherwise. If the relationship by blood is established or not doubted, and one such relative has been confirmed as belonging to a particular caste, there is no reason why public time or money should be spent in the committee testing the same evidence and making the same conclusion unless of course the Committee finds on the evidence that the validity of the certificate of such relation has been obtained by fraud.”

14] In normal course, we would not have entertained this petition, but considering the urgency and exigency in this matter and if relief is not granted immediately the education career of the petitioner would be in peril. While granting caste validity certificate to the real brother of the petitioner, namely, Amey Thakur, the

Division Bench of this Court at Principal Seat has dealt with all issues raised by learned AGP and set aside the order passed by the Scrutiny Committee invalidating the caste claim of Amey Thakur and directed the Scrutiny Committee to issue caste certificate of Thakur – Scheduled Tribe to Amey Thakur. The said judgment is not reviewed.

15] In the light of above, taking overall view of the matter and for the above recorded reasons, the petition is required to be allowed. We make it clear that the decision passed in this Petition would not be set as precedent. Hence, following order is passed :

ORDER

I] The respondent no.2 – Scrutiny Committee shall issue caste validity certificate to petitioner of ‘Thakur – Scheduled Tribe’ immediately.

II] Rule is made absolute in above terms. Writ Petition is accordingly disposed of. No costs.

[S.G.DIGE, J.]

[S.V.GANGAPURWALA, J.]