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

910 WRIT PETITION NO.5686 OF 2022

1. Himmat Onkar Saindane,
Age: 47 Yrs, Occu: Nil
 2. Dhawal Himmat Thakur,
Age: 17 Yrs, Occu: Student,
Ordinary resident of Nimbore,
Tq. Dharangaon, Dist. Jalgaon,
Presently residing at Govind Colony,
Beside Hotel Suhas, S No. 131/3+4+5,
Plot No. 2 Raghukul Colony,
Bhusawal, Tq. Bhusawal,
Dist. Jalgaon
-PETITIONERS

VERSUS

1. Schedule Tribe Certificate
Scrutiny Committee, Nandurbar,
Through its Member Secretary
 2. Schedule Tribe Certificate Scrutiny
Committee, Dhule,
Through it's Member Secretary
-RESPONDENTS

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Mr Mahesh S. Deshmukh, Advocate for petitioners;
Mr S. B. Yawalkar, A.G.P. for respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
ANIL L. PANSARE, JJ.**

DATE : 28th June, 2022

ORAL JUDGMENT (PER : Ravindra V. Ghuge, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by
the consent of the parties.

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2. Leave to add. Addition be carried out forthwith.
3. The petitioner No.1 is the father of the aggrieved candidate/ petitioner No.2, who is a minor. Prayer Clauses (A) and (B) read as under :-

“A) Issue Writ of Certiorari and/or any other appropriate Writ, Order or in the like nature, thereby quash and set-aside impugned order dtd. 12.11.2021 passed by Respondent no. 1 – Scrutiny Committee, Nandurbar, returning proposal of petitioner no. 1 with liberty to resubmit proposal after getting elected in the election.

B) Hold and Declare that, the petitioners belong to “Thakur” Scheduled Tribe and consequently direct the Respondent-Scrutiny Committee, Nandurbar to forthwith issue Certificates of Validity in prescribed form in favour of petitioners within stipulated period in the light of judgment of this Hon’ble High Court in the matter of Apoorva Nichale Vs. Divisional Caste Scrutiny Committee reported in 2010(6) MhLJ 401.”

4. We have considered the submissions of the learned A.G.P., who has supported the impugned findings of the Committee, dated 12/11/2021.
5. The petitioner No.1 had acquired the tribe certificate of belonging to “Thakur – Scheduled Tribe” on 28/10/2004. Since he was desirous of contesting an election to the Municipal

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Council, Bhusawal, scheduled in December 2016, he submitted a proposal on 03/08/2016 for verification of his tribe certificate. After two years, the Committee informed the petitioner, vide letter dated 02/11/2018, to submit a fresh Tribe Certificate in Form 'C'. Taking into consideration this aspect, the petitioner applied for the certificate in Form 'C' and he himself, alongwith petitioner No.2, were granted such certificates, copies of which are placed on record.

6. In the meanwhile, the biological daughter of petitioner No.1, Devyani who had also moved proceedings for validation and verification of her 'Thakur – Scheduled Tribe' certificate. On account of it's rejection, vide order dated 30/06/2019, she impugned it in Writ Petition No.8291/2019. Vide Judgment dated 15/12/2020, this Court set aside the impugned order and validated the claim of the said daughter and directed the Committee to issue a validity certificate. In this backdrop, the petitioner relies upon **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, Nagpur, 2010 (6) Mh.L.J. 401 : AIR 2010 (6) BOM R 21.**

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7. Having perused the impugned order, we find that the Committee has fallen in error on two counts. Firstly, it concluded that the freshly acquired certificate was not in Form 'C'. We find that as the said certificate is in Form 'C', this objection could not have been raised. The second error committed by the Committee was by concluding that, as the petitioner had lost his election, there was no purpose in entertaining his proceedings. We are of the view that the Committee should be least concerned with such aspects of the matter. The bounden duty of the Committee is to consider the claim of the petitioner, strictly in accordance with the law applicable.

8. In view of the above, this petition is partly allowed.

The impugned order dated 12/11/2021, is quashed and set aside and the Proceeding No. 7/499/ELC/082016/104995 is remitted to the Committee at Dhule. The Committee at Nandurbar is presently conducting hearings for the Districts Dhule and Jalgaon.

9. The petitioners shall appear before the sole respondent – Committee, on 18/07/2022 at 12.00 noon, and thereafter, abide by the dates, on which the Committee would post the hearing in the

matter.

10. Considering that petitioner No.2 is a student, we expect the Committee, to decide the claims of both the petitioners, strictly on the merits of the matter and keeping in view the law laid down by the Hon'ble Apex Court in Apoorva Vinay Nichale (supra), unless there is any legal impediment in the validity granted to the daughter Devyani, as expeditiously as possible and preferably, on or before 15/10/2022.

11. Rule made partly absolute in the above terms.

(ANIL L. PANSARE, J.)

(RAVINDRA V. GHUGE, J.)

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