

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.4571 OF 2011
WITH
CIVIL APPLICATION NO.202 OF 2016**

Seema Narayan Salunke ..Petitioner

V/s.

Scheduled Tribe Certificate Scrutiny
Committee ..Respondent

**WITH
WRIT PETITION NO.4578 OF 2011
WITH
CIVIL APPLICATION NO.204 OF 2016**

Sheetal Narayan Salunke ..Petitioner

V/s.

Scheduled Tribe Certificate Scrutiny
Committee & Anr. ..Respondents

Mr. R. K. Mendadkar for the Petitioners.

Mrs. P. J. Gavhane, AGP for the Respondent-State.

Mr. A. A. Garge for Respondent No.2.

**CORAM : SUNIL B. SHUKRE AND
AMIT BORKAR, JJ.**

DATE : 15 FEBRUARY 2022.

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The Petitioners claim to be belonging to Thakur-Scheduled Tribe. By impugned order, the said claim has been

rejected and the Tribe Certificate issued in favour of the Petitioners has been invalidated.

2. While invalidating the certificate, it is seen from the impugned order, that the Scrutiny Committee has given cryptic reasons as to why these validity certificates issued in favour of Vijay, real brother, Pramila, real sister and Suresh, cousin cannot be relied upon. The Scrutiny Committee did consider these validity certificates but applying particularly, the law laid down in *Raju Ramsing Vasave Vs. Mahesh Deorao Bhivapurkar & Ors. Civil Appeal No.5308/2008* refused to rely upon these validity certificates. The Scrutiny Committee reasoned that there was some additional evidence, which created doubt about the social status of the Petitioners and that evidence was in the nature of some documents, as said by the Scrutiny Committee, were not available for scrutiny by the Committee which issued validity certificates to Vijay, Pramila and Suresh.

3. If the Scrutiny Committee was of the view that the validity certificates issued to Vijay, Pramila and Suresh did not provide any trustworthy evidence in support of the Tribe claim of the Petitioners, the Scrutiny Committee ought to have taken decision regarding issuance of process for cancellation of the

validity certificates of the said three relatives of Petitioners, but the Scrutiny Committee did not do so.

4. The Scrutiny Committee also did not consider the documents of pre-constitutional period standing in the name of Piran Chaitram Salunke, paternal uncle of the Petitioners, Chindu Fakira, grandfather of the Petitioners, Fakira Natthu, great grandfather of the Petitioners and Narayan Chaitram Salunkhe, father of the Petitioners. These documents had the entries of the dates of 30/5/1945, 1/1/1945, 13/6/1949 and 17/8/1946 respectively which were of the pre-constitutional era and all of them showed the social status of the persons in whose names the documents are standing, to be that of "Thakur". It seems from the impugned order that these documents are not considered properly by the Scrutiny Committee and only a passing reference has been made in respect of them. It is well settled law that the pre-constitutional documents have greater probative value and therefore, these documents could not have been given casual treatment by the Scrutiny Committee, which in our considered opinion has been meted out to them by the Scrutiny Committee, albeit in ignorance of the settled principles of the law. Had been these documents been considered properly in light of the validity certificates issued in favour of Vijay, Pramila and Suresh, some different result might have been produced in the matter.

5. Learned counsel for the Petitioners submits that well settled principles of law as laid down in *Apoorva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee and Ors.* 2010 (6) Mh.L.J. 401 which has been followed in the case of *Rajesh Anandrao Rodge vs. The Scheduled Tribes Caste Certificate Scrutiny Committee and Ors.* Writ Petition No.2300/2017 decided on 7/9/2020 by Nagpur Bench were not properly considered by the Scrutiny Committee. We hope that if reliance is placed on these judgments by the Petitioners, the Scrutiny Committee shall deal with them and give due consideration to these cases.

6. In the result, we are of the view that the impugned order cannot be sustained in law and is hereby quashed and set aside. The matter requires fresh consideration and therefore it is remanded to the Scrutiny Committee for fresh consideration in accordance with law and preferably within a period of 3 months from the date of appearance of the Petitioners before the Scrutiny Committee. The Petitioners shall appear before the Scrutiny Committee on 21/2/2022. The Petitioners are at liberty to produce before the Scrutiny Committee additional documents, if any.

7. Interim relief granted by this Court on 21/10/2013 shall continue till the claim of the Petitioners is decided by the

Scrutiny Committee and if the decision is adverse to the Petitioners it shall continue for further period of 4 weeks from the date of said order.

8. In view of the above, the petitions are disposed of. All pending Civil Applications are disposed of in terms of the final order.

(AMIT BORKAR, J.)

(SUNIL B. SHUKRE, J.)