

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

WRIT PETITION NO. 326 OF 2019

MADHAVI RAMNATHRAO THAKUR

VERSUS

THE STATE OF MAHARASTHRA AND OTHERS

Advocate for Petitioner : Mr. Sushant C. Yeramwar
AGP for Respondent Nos. 1 & 2 : Mr. P.S. Patil

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 05 JULY 2023

PER COURT (PER : SHAILESH P. BRAHME, J) :

1. Heard learned counsel for the parties. With their consent the matter is taken up for final hearing.
2. The petitioner is assailing judgment and order dated 24 September 2018, passed by respondent no. 2 – Scrutiny Committee, invalidating her claim for scheduled tribe ‘Thakur’.
3. The petitioner has placed reliance upon the tribe validity certificates issued in favour of her real brother Rahul and father

Ramrao Vitthalrao Thakur. Besides that reliance is placed upon school record of herself, her brother, father, affidavits of the relatives, etc.

4. The Scrutiny Committee decided against the petitioner because the school record, the revenue record and the place of residence were found to be incompatible with the claim. There are contrary entries disclosed in the school and revenue record showing 'Thakur' as a tribe. The report of the vigilance enquiry was recorded against the petitioner. The revenue record was also not supportive. The material produced on record disclosed tribe 'Thakur' which was in fact not a scheduled tribe. The evidence on record was found to be not reliable. The validity certificate of brother and father were found to have acquired by suppressing material facts and without following due procedure of law. The affinity test was also recorded against the petitioner.

5. Learned counsel for petitioner heavily relies upon the validity certificates issued in favour of her brother and father. Unless and until the matters of validity holders are reopened and certificates are cancelled, there is no reason to deprive the petitioner from the caste benefit. Learned counsel relies upon the law laid down by the Supreme

Court in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Versus State of Maharashtra and Others, 2023 SCC Online SC 326.*

6. On the other hand, learned AGP submits that the reasons recorded by the Scrutiny Committee are based upon material on record. Due opportunity was given by the Scrutiny Committee. The school record shows that tribe 'Thakur' is not a scheduled caste. The validity certificates were procured by misleading the Committee.

7. After considering the rival submissions of the parties, we find glaring material in favour of the petitioner in the form of validity certificates issued in favour of father and brother of the petitioner. Her father was given validity certificate pursuant to the judgment and order passed by Division Bench in the matters of Writ Petition Nos. 4746 of 1998, 5454 of 1998 and 856 of 1998. Her brother was also given validity certificate. The material which was considered by the Scrutiny Committee in the present matter was also before the Scrutiny Committee while considering the claims of father and brother. On the ground of parity, we feel it appropriate to rely upon the validity certificates.

8. A useful reference can be made to the principles laid down in paragraph No. 22 to 24 by Supreme Court in case of *Maharashtra [Adiwasi Thakur Jamat Swarakshan Samiti](#)* (supra).

9. We find that the Scrutiny Committee had issued validity certificate in favour of father and brother of the petitioner after following due procedure of law. The learned AGP did not point out any material circumstance to take contrary view.

10. The Scrutiny Committee committed patent illegality in discarding the validity certificates of father and brother. The approach of the Scrutiny Committee is discriminatory and perverse in rejecting the claim of the petitioner.

11. Learned AGP on being questioned informs that the Scrutiny Committee has not taken any steps to reopen the matters of validity holders. Under these facts and circumstances, we deem it appropriate to allow this petition in following terms :

- i. Writ Petition is allowed partly
- ii. The judgment and order dated 24 September

2018, passed by Scrutiny Committee is quash and set aside.

iii. The Scrutiny Committee shall issue validity certificate of scheduled tribe 'Thakur' in favour of the petitioner within a period of two weeks from today.

iv. There shall be no order as to costs.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

spc/-