

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

**WRIT PETITION NO. 792 OF 2010**

Ganesh Arvind Thakur,  
Age : 22 years, Occu. : Student,  
R/o Plot No. 24, Gat No. 9/2/1 A,  
Omshanti Nagar, Pimprala,  
Jalgaon, Dist. Jalgaon.

.. Petitioner

**Versus**

1. The State Of Maharashtra  
Through Secretary Department  
of Tribal Development,  
Mantralay Mumbai Mumbai
2. The Scheduled Tribe Certificate  
Scrutiny Committee, Nandurbar  
Division, Nandurbar,  
Through its Member Secretary,
3. The Sub Divisional Officer,  
Jalgaon Division, Jalgaon.
4. North Maharashtra University,  
through Its Registrar, Jalgaon.
5. The Principal  
Government Engineering College,  
Jalgaon.
6. Chairman, Railway Recruitment  
Board, Mumbai Divisional Office  
Compound, Mumbai Central 400 008. .. Respondents

Shri S. C. Yeramwar, Advocate for the Petitioner.

Shri S. B. Yawalkar, Addl.G.P. for the Respondent Nos. 1 to 3 and  
5.

CORAM : MANGESH S. PATIL AND  
SHAILESH P. BRAHME, JJ.

DATE : 25 SEPTEMBER 2023.

**JUDGMENT** (Per Shailesh P. Brahme, J.) :-

. Heard learned counsel for both the sides.

2. The petitioner is assailing the judgment and order dated 22.12.2009 passed by the Scrutiny Committee invalidating the tribe certificate of 'Thakur' (Scheduled Tribe) and confiscating the same. The petitioner is relying on the validity certificate of his cousin brother Atul and old entries standing in the name of Madhav Sonji Thakur.

3. The learned counsel for the petitioner submits that the Scrutiny Committee ought to have relied upon the validity certificate. Considering the pre-independence record of Madhav Sonji, the order of invalidation is perverse.

4. The learned counsel for the petitioner would submit that the finding regarding the proof of residence and the affinity test recorded by the Scrutiny Committee are unsustainable in view of the removal of area restriction and the pronouncement of the Supreme Court in the matter of **Maharashtra Adivasi Thakur Jamat Swarakshak Samiti Vs. State of Maharashtra and others** reported in **2023 (2) Mh. L. J. 785**.

5. Per contra, the learned Assistant Government Pleader supports the impugned judgment. According to him the scrutiny

committee is justified in rejecting the caste claim considering the affinity test and lack of evidence to show the place of residence of forefathers of the petitioner in the scheduled area. He would submit that the scrutiny committee has rightly held that the claim of the petitioner is false and the caste is non tribal Thakur.

6. The learned A. G. P. would further submit that the validity certificate is not reliable. The old record of Madhav Sonji is doubtful. According to him it is incomprehensible that the petitioner would be belonging to Scheduled Tribe Thakur when his grandfather in the year 1933 was having been admitted in the school. He would urge to dismiss the petition.

7. We have considered the submissions of the learned counsel for the respective parties. We have gone through the genealogy which is placed on record at page No. 71. The learned A. G. P. has not disputed the relations of the persons shown in the genealogy. Atul Prakash Thakur a cousin of the petitioner is a validity holder. His validity certificate is produced on record. There is vigilance enquiry in the matter of Atul. It is not disputed that by speaking order he was issued with validity certificate. We find that the validity certificate of Atul is reliable one.

8. The petitioner is relying upon a clinching piece of evidence of admission record of grandfather Madhav Sonji Thakur. We have perused the old document of 1933 indicating caste as Thakur. The said document was considered by the scrutiny committee. Nothing adverse is noticed during vigilance enquiry in

respect it. It is of pre-independence of period. It would enure to the benefit of the petitioner having greater probative value. We find that in view of the school record of 1933 and the validity certificate of Atul, the petitioner has made out a case for issuing validity certificate.

9. The finding recorded by the scrutiny committee in respect of proof of place of residence of forefathers of the petitioner cannot be approved. After the removal of area restrictions, it is inconsequential to expect from a claimant to prove his original place of residence. With the advent of time, migrations and intermingling of the scheduled tribe people with other members of the society the proof of place of residence has little significance. In our considered view the place of residence cannot be a decisive factor.

10. The finding regarding affinity test recorded by the committee is not sustainable because affinity test is not litmus test. In view of judgment of the Supreme Court in the matter of **Maharashtra Adivasi Thakur Jamat Swarakshak Samiti Vs. State of Maharashtra and others** (supra) the result of the affinity test is inconsequential. The finding recorded by the Scrutiny Committee for disbelieving the old entry of 1933 cannot be approved. We find that the scrutiny committee has committed perversity in rejecting the caste claim.

11. For the reasons recorded above, we pass following order.

**ORDER**

1) The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent - committee shall immediately issue the tribe validity certificate to the petitioner as belonging to 'Thakur' scheduled tribe in the prescribed format without adding anything. The validity shall be subject to the final outcome of the matters which the committee has decided to re-open.

2) The petitioner shall not be entitled to claim equities.

3) Law Officer of the scrutiny committee is present in Court.

4) We request the learned AGP and the Law Officer to immediately communicate this order to the committee so that the petitioner gets the certificate of validity in time today being the last date.

[ SHAILESH P. BRAHME, J.]

[ MANGESH S. PATIL, J.]

*bsb/Sept. 23*