

Scrutiny Committee, whereby, her certificate of 'Thakur' scheduled tribe has been confiscated and cancelled under Section 7(2) of the Maharashtra Act XXIII of 2001.

2. We have heard both the sides finally at the stage of admission.

3. The learned advocate for the petitioner submits that the petitioner's father Suresh is a validity holder. Her real sister Harshada and cousin Shital Ramesh Dalve have also been granted certificates of validity pursuant to the order of this Court in W.P. No.5113/2020 and W.P. No.8794/2019 respectively. Even both of them were relying upon the validity of one Vyanktesh Rameshrao Dalve. He would submit that the scrutiny committee having harboured a view about Suresh and Vynaktesh having obtained certificates of validity by resorting to misrepresentation and by concealing contrary entries this Court had directed conditional certificates to be issue to Harshada and Shital.

4. The learned advocate would further submit that though the only two contrary entries being relied upon by the Committee in fact are not contrary. The entry in the school record of father Suresh of 1975 was Hindu and that of her paternal aunt Meerabai of the same year was Indian. He would submit that these are not the contrary entries. Rest of the record before the Committee uniformly described the petitioner and her blood relations as belonging to Thakur scheduled tribe. The committee has discarded such favourable record by resorting to the principle of area restriction which it could not have in the light of the decision in the matter

of **Palaghat Jila Thandan Samuday Sanrakshan Samiti and Anr. Vs. State of Kerala and Anr.**; (1994) 1 SCC 359, and **Jaywant Dilip Pawar Vs. State of Maharashtra and Ors.**; 2018 (5) All.M.R. 975.

5. Learned AGP supports the order.

6. Admittedly, petitioner's father Suresh and first degree cousin Vyanktesh possess certificates of validity. Even if the Committee has now decided to undertake scrutiny of their validities, as we have considered in the matter of petitioner's real sister Harshada and cousin Shital who is none other than real sister of validity holder Vyanktesh, till the time the certificates of validity issued to Suresh and Vyanktesh are not confiscated and cancelled, when it is not the stand of the Committee that they had obtained certificates of validity without following due process of law, the petitioner cannot be denied to have a certificate of validity subject to the final outcome of the matters which the committee has decided to reopen.

7. Independently, in the light of decision in the matters of **Palaghat Jila Thandan Samuday** and **Jaywant Dilip Pawar** (supra), the Committee could not have once again resorted to the principle of area restriction after the Amendment Act of 1976. The consistent school record of the petitioner's relations referred to in the impugned order apparently supports her claim of being belonging to Thakur scheduled tribe. The impugned order is clearly perverse, arbitrary and illegal.

8. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent - committee shall immediately issue

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.

9. The petitioner shall not be entitled to claim equities.

(NEERAJ P. DHOTE, J.)

(MANGESH S. PATIL, J.)