

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 4427 / 2023

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| 1. Vishal s/o Laxman Shinde | |
| 2. Swapnil s/o Laxman Shinde | |
| 3. Virendra s/o Jagdish Shinde | |
| 4. Rutuja d/o Jagdish Shinde | |
| 5. Vednant s/o Sudhir Shinde | ...Petitioners |

Versus

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| 1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai. | |
| 2. Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Having its Head Quarter at Aurangabad
Through its Member Secretary. | ...Respondents |

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Mr. Sagar S. Phatale, Advocate for the Petitioners.

Mr. A.A. Jagatkar, AGP for respondents/State.

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

DATE : 29 AUGUST 2023.

FINAL ORDER [SHAILESH P. BRAHME, J.] :

. Heard both the sides finally.

1. The petitioners are taking exception to the judgment and order dated 13.01.2023 passed by the respondent no.2/Scrutiny Committee, invalidating their tribe claim as belonging to Thakur scheduled tribe. According to the petitioners, the impugned judgment

and order is arbitrary because the validity certificates were discarded and the despite the old record, the caste claims were rejected.

2. The learned AGP supports the impugned judgment and order. In support of his submission, the original papers in the matter of one of the validity holders Rajesh Vitthal Shinde is produced on record. The genealogy proposed by the petitioners is objected by the learned AGP. He would submit that the Scrutiny Committee is justified in rejecting the caste claim considering the contrary record.

3. We have considered the rival submissions of the parties. The genealogy which is produced on record indicates that there are number of validity holders to support the claim of the petitioners. The petitioners are relying upon the validity certificates of Ganesh Shinde and Dnyaneshwar Shinde. Our attention is invited to the vigilance report prepared in the matter of Ganesh, which is at page no.42. The school record of various relatives were considered in the vigilance enquiry. It further transpires that the record of Narayan Shinde and Baburao Shinde was pre-constitutional. Thereafter Ganesh was issued with validity certificate.

4. The petitioners have also shown that by a reasoned order, Dnyaneshwar was issued with validity certificate. We find that both the validity certificates are reliable. Unless they are revoked, the petitioners cannot be denied the benefit of identical social status. We, therefore, find that the impugned judgment is discriminatory.

5. The learned AGP has shown from the original papers that the

genealogy produced in the matter of Rajesh Vitthal Shinde is inconsistent with the genealogy produced by the petitioners in the present matter. The relationship of the petitioners with the validity holders is doubtful. We are not satisfied with the submissions of the learned AGP at this juncture. We cannot embark an enquiry into this aspect of the matter. It is informed that the Scrutiny Committee has proposed re-verification. This aspect can be gone into during the re-verification.

6. We are of the considered view that the petitioners are entitled to conditional validity. The impugned judgment and order is unsustainable. We, therefore, partly allow the petition by passing following order.

ORDER

- (i) The judgment and order dated 13.01.2023 passed by the Scrutiny Committee is quashed and set aside.
- (ii) The Scrutiny Committee shall immediately issue tribe validity certificates of 'Thakur' scheduled tribe to the petitioners , which shall be subject to the final outcome of re-verification undertaken by the Scrutiny Committee.
- (iii) The petitioners shall cooperate for the re-verification.
- (iv) The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]