

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6006 OF 2023

1. Himmat S/O Onkar Saindane,
Age 49 years, Occupation Nil,

2. Dhawal s/o Himmat Thakur,
Age 18 years, Occ.Student,

Ordinary residents of Nimbhore,
Tq. Dharangaon Dist.Jalgaon.
Presently residing at Plot No.2,
Govind Colony, Beside Hotel Suhas,
Bhusawal Tq.Bhusawal,
Dist. Jalgaon.

...Petitioners

VERSUS

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai -32.
Through its Secretary.

2. The Scheduled Tribe Certificate
Scrutiny Committee, Dhule Division,
Dhule, Tq. And Dist.Dhule
Through its Member Secretary.

...Respondents

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Advocate for Petitioners : Mr. S. C. Yeramwar
AGP for Respondents-State : Mr. S. G. Sangale
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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 06/07/2023

JUDGMENT : (Per SHAILESH P. BRAHME, J.)

Rule. Rule made returnable forthwith.

2. The petitioners are challenging Judgment and order dated 13/03/2023 invalidating tribe claim of the petitioners for Scheduled Tribe 'Thakur'. The validity certificate of daughter of the petitioner No.1 Devyani d/o Himmatrao Thakur and the Judgment and order passed in Writ Petition No.8291 of 2019 are placed on record. It is submitted that the entire record was considered by the High Court in the case of Devyani Thakur. The High Court also considered the validity issued in favour of Mahendra Pal. On the ground of parity, it is submitted that their claim needs to be allowed. Besides that, there are further validities issued in favour of the blood relatives.

3. The learned AGP contests the matter pointing out the school record collected during the course of inquiry which was inconsistent with the claim. The school record shows the tribe as 'OBC Hindu'.

4. The Scrutiny Committee found that the school and revenue record of the relatives was not compatible with the claim of the petitioners. There was tendency of taking disadvantage of similarity in the name. The place of residence of the petitioners and their forefathers was not compatible with the claim. Considering the

report of vigilance inquiry and the affinity test, it was impermissible to grant validity.

5. In respect of the validity holders, it was recorded by Scrutiny Committee that the validity of Mahendra Pal was doubtful because of the disputed relations. The validity of Devyani was dependent upon Mahendra Pal. On these counts, the claims were invalidated.

6. The learned Advocate for the petitioners submits that the relationship of the petitioners with the validity holders is not disputed. There is identical material which was considered in the case of Devyani. We find that reliance placed upon validity certificate of Devyani, Mahendra Pal and Prathamesh is just and proper. There is no gainsaying in repeatedly discussing entire material of validity holder.

7. We also notice that Devyani and Prathamesh were given validity certificates by the intervention of orders passed by the Division Bench. All the contrary entries were considered by the High Court in the matter of Devyani in Writ Petition No.8291 of 2019. The arguments pertaining to the school record, area restriction, were considered in the above matter.

8. We find that the Scrutiny Committee adopted discriminatory approach by passing impugned Judgment and order. Invalidation of the claims of the petitioners is against principles laid down in paragraphs No.22 to 24 of the Supreme Court in Maharashtra Adiwasī Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and Ors., reported in 2023 (2) Mh.L.J. 785. Therefore, it is necessary to interfere with the impugned Judgment and order.

9. We, therefore, pass following orders :-

- (1) The impugned Judgment and order dated 13/03/2023, passed by the Scrutiny Committee, is quashed and set aside.
- (2) The respondent Scrutiny Committee shall issue validity certificates of Schedule Tribe to both the petitioners within a period of two weeks.
- (3) Rule is made absolute in above terms.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

vjg/-