

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 3741 / 2011

Veena D/o Mrugank Thakur

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar Region,
Through its Member Secretary, Nandurbar.
3. The Deputy Collector,
Dhule.
4. The Principal
Sinhgad Technical Education Society's,
Smt. Kashibai Navale College of Engineering
(Co-Ed), S.No. 44/1, Vadgaon (Bk),
Opp : Sinhgad Road, Pune - 400001.
5. University of Pune,
Through its Registrar.

...Respondents

Mr. Madhur A. Golegaonkar h/f Mr. A.S. Golegaonkar, Advocate for
the Petitioner.

Mr. S. B. Yawalkar, Addl. GP for respondents/State.
Mr. Anand P. Bhandari, Advocate for Respondent No.4.

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

DATE : 27 SEPTEMBER 2023.

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

. Heard both the sides finally at the admission stage.

2. The petitioner is challenging the judgment and order dated 29.03.2011 passed by the Scrutiny Committee, invalidating her tribe certificate of 'Thakur' scheduled tribe and confiscating the same. The petitioner is relying upon the validity certificate issued to her uncle Chandrashekhar and the old record. It is further contended that the siblings of Chandrashekar are also issued with validity certificates in pursuance to the orders passed by the High Court.

3. The learned AGP supports impugned judgment and order. According to him, the Scrutiny Committee is justified in rejecting the caste claim because the record only indicates caste as 'Thakur' which is not a scheduled tribe Thakur. The validity certificates produced on record to corroborate the claim has rightly been discarded because they were procured by suppression of material facts and they are founded on extraneous material. The Scrutiny Committee has rightly recorded that the petitioner failed to succeed in the affinity test. The place of residence is not compatible with the tribe claim. As the Committee has taken a plausible view, there is no ground to interfere with the impugned judgment and order.

4. The learned Counsel for the petitioner during the course of argument has placed on record the affidavits of Jayesh Chandrashekhar Thakur and Aishwariya Chandrashekhar Thakur alongwith their validity certificates and orders passed by the High Court in their matters. The genealogy is at page no.73. Chandrashekhar is the uncle of the petitioner. Jayesh and Aishwariya are the siblings of Chandrashekhar. Both of them are issued with validity certificates in pursuance of the orders passed by the High

Court in the Writ Petition No.282/2020 decided on 17.08.2020 and Writ Petition Stamp No.20755/2019 decided on 22.07.2019. The High Court in both the matters has directed to issue validity certificates without incorporating any conditions. The selfsame record was considered by the High Court in both the matters. We also propose to follow the same course.

5. Besides above the validity certificates, the petitioner has produced on record the copy of order passed in the case of Chandrashekhar Bhagwansingh Thakur Vs. Secretary to the Government in Writ Petition No.2017/1996. By speaking order on 12.12.2003, the petition was allowed and the Committee was directed to issue validity certificate to Chandrashekhar. Relying on the judgment, his children also are issued validity certificates. We find that the petitioner is entitled to validity certificate.

6. We hold that the Scrutiny Committee has committed error of jurisdiction in discarding the validity certificate of Chandrashekhar, though validity certificates of Jayesh and Aishwariya were not produced on record before the Committee. The validity certificate of Chandrashekhar was sufficient to uphold the tribe claim of the petitioner. We find that the impugned judgment of the Committee is unsustainable. We, therefore, allow the petition by passing the following order.

ORDER

(i) The judgment and order dated 29.03.2011 passed by the Scrutiny Committee is quashed and set aside.

(ii) The Scrutiny Committee shall issue tribe validity certificate of 'Thakur scheduled tribe' to the petitioner forthwith.

(iii) The writ petition is disposed of accordingly.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]