

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

WRIT PETITION NO. 7108 OF 2023

Kunal S/o Eknath Thakur ...Petitioner

Versus

Scheduled Tribe Certificate Scrutiny Committee ...Respondent

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Advocate for Petitioner : Mr. Umesh Gite h/f Mr. Mahesh S. Deshmukh
AGP for Respondent/State : Mr. A.S. Shinde

...

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

DATE : 08 AUGUST 2023

ORDER (Shailesh P. Brahme, J.) :

. Heard both the sides finally at the admission stage, considering urgency in the matter.

2. The petitioner is challenging the order dated 17.10.2022 passed by the respondent no.2/Scrutiny Committee, invalidating the caste validity certificate of Thakur scheduled tribe. According to the petitioner, the Scrutiny Committee committed perversity in rejecting the caste claim, when there was pre-independence record available and produced before it.

3. The learned AGP would submit that the school record produced before the Committee was not compatible with the claim. The claim found to be doubtful considering the place of residence of the petitioner and his forefathers. The Committee is justified in holding that the petitioner failed in the affinity test.

4. The petitioner has produced on record the documentary evidence of cousin grandfather Babulal Dalpat Thakur, Shravan Dalpat Thakur and Tarachand Dalpat Thakur, which are of pre-constitutional period. The school record of Sushila Tarachand Thakur and Shobha Seetaram Thakur is sufficiently old record. There is a clinching evidence on record to support the petitioner's claim. In view of law laid down by the Supreme Court in the matter of **Anand Versus Committee for Scrutiny and Verification of Tribe Claims and Others**, reported in (2012) 1 SCC 113 and specifically paragraph no.22 that the evidence on record has furnished higher degree of probative value. We therefore find that the Scrutiny Committee committed perversity in discarding the school record.

5. A finding is recorded by the Scrutiny Committee that the petitioner and his forefathers' place of residence was not compatible with the claim of Thakur scheduled tribe. They were found to be residence of Undir Khede, Taluka Parva, Dist. Jalgaon which is inconsistent with normal place of residence of the members of the scheduled tribe. It is difficult to sustain this finding also in view of pronouncement of the Supreme Court in the matter of **Jaywant Dilip Pawar Vs. State of Maharashtra and Others** reported in 2018(5) All.M.R. 975. In view of the removal of area restriction, it is not expected of a member of a particular tribe to prove that the place of residence would be traditional.

6. Besides that we also notice that the school record of the close relatives of the petitioner namely Kokda Tarachand Thakur was doubted because of the changes made in the school record. The petitioner has already tendered explanation disclosing that by following due procedure of law, the changes were made in the school record.

7. Thus, in the present matter, though there is no validity certificate issued in the family of the petitioner, considering old record, we hold that the petition succeeds. The impugned judgment and order is unsustainable. We are of the considered view that the petitioner is entitled to receive the validity certificate without incorporating any conditions. We, therefore, pass the following order.

ORDER

- A. The writ petition is partly allowed.
- B. The impugned order dated 17.10.2022 passed by the respondent/Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificate to the petitioner as belonging to 'Thakur' (Scheduled Tribe).
- C. The certificate of validity shall be issued in the prescribed format without incorporating other conditions.
- D. The petitioner shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]