

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14588 OF 2021

Soham Ramakant Shinde, minor
through father and natural guardian
Shri Ramakant Sitaram Shinde ... **PETITIONER**

VERSUS

- | | | |
|----|---|-----------------|
| 1. | State of Maharashtra
through its Secretary, Tribal
Development Department
Mantralaya, Mumbai – 400 032 | |
| 2. | Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad through its
Office at Aurangabad, Dist. Aurangabad | |
| 3. | Commissioner and Competent
Authority, Maharashtra State CET
Cell, having its office at New
Excelsior Building, 8 th Floor,
A.K. Nayak Marg, Fort, Mumbai – 1 | |
| 4. | Veermata Jijabai Technological Institute
through its Principal, having its
office at Matunga, Mumbai – 400019 | ... RESPONDENTS |

AND

WRIT PETITION NO.11872 OF 2022

Chaitanya Ramakant Shinde ... PETITIONER

VERSUS

1. State of Maharashtra through its Secretary, Tribal Development Department Mantralaya, Mumbai – 400032
2. Scheduled Tribe Certificate Scrutiny Committee, Aurangabad through its Member Secretary, having its office at Aurangabad, Dist. Aurangabad
3. Commissioner and Competent Authority, State CET Cell, Maharashtra State, having its

office at New Excelsior Building,
8th Floor, A.K. Nayak Marg, Fort,
Mumbai – 400 001

4. College of Engineering, Pune
through its Principal, having its
office at Shivaji Nagar, Pune
Dist. Pune

... **RESPONDENTS**

...

AND

WRIT PETITION NO.11874 OF 2022

Pawan Suryakant Shinde

... **PETITIONER**

VERSUS

1. State of Maharashtra
through its Secretary, Tribal
Development Department
Mantralaya, Mumbai – 400032
2. Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
through its Member Secretary,
having its office at Aurangabad,
Dist. Aurangabad
3. Yashwantrao Chavan Maharashtra
Open University, through its
Registrar, having its office at Dnyanganotri
Near Gangapur Dam, Nashik, Pin - 422222
4. Principal,
Conquest College of Arts, Commerce
and Computer Studies having
office at Jadhavwadi, Chikali,
Haveli, Dist. Pune

... **RESPONDENTS**

AND

WRIT PETITION NO.11875 OF 2022

Pooja Suryakant Shinde

... **PETITIONER**

VERSUS

1. State of Maharashtra
through its Secretary, Tribal
Development Department
Mantralaya, Mumbai – 400032
2. Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
through its Member Secretary,

having its office at Aurangabad,
Dist. Aurangabad.

3. Yashwantrao Chavan Maharashtra
Open University, through its
Registrar, having its office at Dnyanganotri
Near Gangapur Dam, Nashik, Pin - 422222
4. Principal,
Conquest College of Arts, Commerce
and Computer Studies having
office at Jadhavwadi, Chikali,
Haveli, Dist. Pune

... **RESPONDENTS**

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Advocate for Petitioner : Mr. R.K. Mendadkar and S.S. Phatale
A.G.P for respondent/State : Mr. S.G. Sangale

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

DATE : 25.08.2023

ORDER (MANGESH S. PATIL, J.) :

By way of these separate writ petitions four individuals are impugning the orders passed by the Scrutiny Committee confiscating and cancelling their certificates of 'Thakar' scheduled tribe.

2. Considering the exigency we have heard all the matters simultaneously. Though there are two decisions of the Scrutiny Committee one in respect of Soham Ramakant Shinde and the other in respect of Chaitanya Ramakant Shinde, Pawan Suryakant Shinde and Pooja Suryakant Shinde, since admittedly Soham happens to be the real brother of Chaitanya and his matter together with the matter of Pawan and Pooja was decided by a common judgment, we are disposing of all these petitions simultaneously.

3. There is no dispute about the genealogy. One Eknath Shinde is the common ancestor. He had two sons Sitaram and Tulsiram. Sitaram was

having three sons Ramakant, Suryakant and Shriram. Petitioner Chaitanya and Soham are the sons of Ramakant, whereas, petitioner Pooja and Pawan are the Suryakant's issues. There is no dispute about the fact that Prashant, who happens to be the real brother of Pooja and Pawan, their father Suriyakant, the third son of Sitaram by name Shriram and Shriram's son Pravin are the validity holders. Admittedly, Shriram had obtained the certificate of validity first in point of time in the year 2001. The Committee has refused to recognize this certificate of validity on the ground that it was not issued in accordance with law. However, it has not elaborated as to why when the certificate was issued by referring to certain decision of the High Court could have been discarded. Pertinently, the Committee has not observed that he had practised fraud on the Committee while obtaining the certificate of validity.

4. The Committee has refused to recognize the certificate of validity of Shriram on the ground that he was issued with a certificate only on the ground that he was issued with a certificate only on the basis of the certificate of validity of his maternal side cousin Sangita Niloba Garud. However, we have gone through the order passed in the matter of Sriram and find that though certificate of validity of Sangita was produced that was not the sole reason on the basis of which he was granted certificate of validity.

5. The Committee has even sought to take exception to the validity certificates issued to Praveen Shriram Shinde and Prashant Suryakant

Shinde on the ground that those were issued when the Committee headed by one Mr. V.S. Patil was in the office. We need not deliberate on this. So long as the certificates of validity issued by following necessary procedure in accordance with law are not confiscated and cancelled in accordance with law as is prescribed under section 7(1) of the Maharashtra Act no. XXIII of 2001, the committee could not have refused to extend the benefit of the validities in the family by questioning the functioning of the then scrutiny committee.

6. Again the committee has also resorted to area restriction and has applied affinity test unmindful of the fact that the area restriction has been long removed and the affinity test is not a litmus test and has a limited scope.

7. The Committee has then relied upon one contrary entry of the year 1973 which in our considered view is only an isolated and stray entry which is being relied upon by the Committee ignoring several favourable entries of prior period, wherein petitioners' relatives have been described as Thakar in the school record right from the year 1963.

8. Considering the above state of affairs, till the time the validity certificates in the family are not confiscated and cancelled by following due process of law, the petitioners cannot be deprived of having its benefit.

9. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent-committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Thakar'

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.

10. The petitioners shall not be entitled to claim equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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