

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13310 OF 2022

1] Janhavi d/o Shashank Bhamare

2] Yogita d/o Nitin Thakur

.. 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

WITH

**CIVIL APPLICATION NO. 7975 OF 2023 IN WP/ 13310 /2022
(FOR INTERVENTION)**

(Aadivasi Nokarvarg Thakur and Thakur Samaj Utkarsha Sanstha
Versus
Janhavi Shashank Bhamare and another)

WITH

WRIT PETITION NO. 13311 OF 2022

Pankaj S/o Subhash Bhamare

.. Petitioner

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. & Dist. Dhule
Through its Member Secretary

3] The Commissioner,
Dhule Municipal Corporation,
Dhule, Tq. & Dist. Dhule

.. Respondents

WITH
CIVIL APPLICATION NO. 7974 OF 2023 IN WP/ 13311 /2022
(FOR INTERVENTION)
 (Aadivasi Nokarvarg Thakur and Thakur Samaj Utkarsha Sanstha
 Versus
 Pankaj Subhash Bhamare and others)

WITH
WRIT PETITION NO. 7161 OF 2023

- 1] Rupesh S/o Rajendra Bhamare
- 2] Manisha d/o Rajendra Bhamare
- 3] Jayashri d/o Rajendra Bhamare
- 4] Yogeshwari d/o Rajendra Bhamare
- 5] Kishor s/o Diwan Thakur
- 6] Sagar s/o Shashikant Bhamare

.. 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. & Dist. Dhule
 Through its Member Secretary
- 3] The Divisional Joint Director of
 Agriculture, Nashik Division,
 Old Commissioner Office,
 Nashik, Tq. and Dist. Nashik
- 4] The Regional Manager,
 Forest Development Corporation of
 Maharashtra Limited,
 Ajinkya Sankul, Tryambak Naka,
 Kalika Mata Road, Nashik,
 Tq. & Dist. Nashik

.. Respondents

...
Advocate for petitioner: Mr. Mahesh S. Deshmukh i/by Mr. Sushant C. Yeramwar
For the respondent – State : Mr. V.D. Sapkal, Senior Advocate (Special Counsel)
i/by Mr. P.S. Patil, Addl. G.P. (WP/13310/2022 & WP/13311/2022)
Advocate for respondent in CA/7975/2023 and CA/7974/2023 : Mr. S.B. Deshpande,
Senior Advocate i/by Mr. S.S. Deshpande and Mr. B.B. Padavi
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**
DATE : 04 JULY 2023

JUDGMENT (MANGESH S. PATIL, J.) :

Heard.

2. Rule. Rule is made returnable forthwith.
3. Mr. Sapkal instructed by Mr. P.S. Patil, Additional Government Pleader waives service for the respondent – State in writ petition no. 13310 of 2022 and 13311 of 2022.
4. We have also heard learned Senior advocate Mr. S.B. Deshpande who appears for the intervenors who have filed civil application nos. 7974 of 2023 and 7975 of 2023.
5. At the joint request of the parties, the matters are heard finally at the stage of admission.
6. The petitioners who are admittedly the blood relations from the paternal side *inter se* are challenging the orders passed by the respondent – Scheduled Tribe Certificate Scrutiny Committee whereby

it has rejected their claim of *Thakur* scheduled tribe validation certificate under the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 ("**the Act**").

7. At the outset, it is necessary to note that the learned advocate for the petitioners raised a preliminary objection as regards the *locus standi* of the intervenors who have filed civil applications. Learned advocate Mr. Deshmukh also laid emphasis on the decision in the matter of ***Ayaaubkhan Noorkhan Pathan Vs. State of Maharashtra and others; (2013) 4 SCC 465.***

8. We have carefully gone through the decision. It has been laid down that a person aggrieved must be one whose right or interest has been adversely affected or jeopardized and he must establish that he has suffered some legal injury.

9. To counter this argument and to distinguish the ratio laid down in the matter of ***Ayaaubkhan Noorkhan Pathan*** (supra), Mr. Deshpande would strenuously submit that the intervenor is a society working for the welfare of the selfsame scheduled tribe to which the petitioners claim to belong. The intervenor society has sufficient reason to believe that petitioners are not entitled to claim to be belonging to that tribe. Allowing them to derive such benefit in effect

deprives the legitimate claim of a tribal to the post or the seat to which the petitioners have been staking claims.

10. We have heard the learned advocate for the petitioners, Learned senior advocate Mr. Sapkal as also the learned Senior advocate Mr. Deshpande for the intervenors.

11. Without going into any other aspect, it would be sufficient to observe that the intervenor is a society purportedly working for the welfare of the Thakur and Thakar tribes as can be seen from the impugned orders. On a complaint filed by this society / intervenor that the committee had undertaken the scrutiny. If this is the state-of-affairs when the intervenor was already before the scrutiny committee when the petitioners claims were being considered for validation, in our considered view that intervenor society is a proper party and deserves to be extended an opportunity of being heard. We, therefore, allow both the civil applications.

12. We have also heard both sides including the intervenors on the merits of the matters.

13. Pertinently, the learned advocates for the petitioners and the learned senior advocates appearing for the scrutiny committee and the intervenor society have made elaborate attempt to take us through the entire record and the proceedings. They have also taken us

through the various decisions. It was also strenuously pointed out that there was sufficient reason for the scrutiny committee to refer to and rely upon an old adverse entry of one Madhav Namdeo Thakur who was borne in the year 1929 and his school record, wherein he was admitted on 01-02-1936, demonstrates that he was belonging to Hindu *Thakur* Rajput tribe.

14. We appreciate the efforts being made by the learned senior advocates. However, we are bound by the judicial discipline. As has been the trend of the orders being passed by this Court in catena of matters for many years, considering the peculiar nature of the kind of these matters where different generations of the same blood relations from time to time seek to derive benefit of the social status of reservation one after the other.

15. At times, a blood relation from paternal side is able to secure a validity certificate. The other blood relation seek to derive the benefit. When the scrutiny committee undertakes a scrutiny of such second generation, it resorts to another enquiry including an enquiry through the vigilance cell as is contemplated under section 12 of the Act. It then finds that the validity obtained by the earlier person was not issued legally. Suffice for the purpose to observe that this precisely has been noticed by the Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of***

Maharashtra and others; 2023 SCC Online SC 326, in paragraphs no. 22 to 24. The scrutiny committee then decides to resort to a remedy of re-opening the cases of the validity holders. However, obviously this process takes enormous time. Not even notices are issued for years together to such validity holders.

16. Faced with the situation, this Court has been consistently granting certificates to the second generation / blood relations subject to the outcome of the decisions in the matters of cases which the scrutiny committee intends to re-open or has already re-opened. Taking a pragmatic and logical view, such conditional validities are granted.

17. The matter in hand is on a better footing. Admittedly, as many as 7 blood relations from the paternal side of all these petitioners have been issued with validity certificates pursuant to the orders of this Court in their respective writ petitions as follows:

Sr. No.	Name of the validity holder / blood relation	Writ Petition Number
01.	Jagannath Divan Bhamare	2702 of 1998
02.	Nita Divani Bhamare	2153 of 2007; 2215 of 2010 2336 of 2011
03.	Prakash Hiralal Bhamare	6972 of 2014
04.	Shashank Prakash Bhamare	6974 of 2014
05.	Bharat Gulabsing Bhamare	54 of 2016
06.	Ameya Mahendrasing Bhamare	9322 of 2018
07.	Shreyas Mahendrasing Thakur	13569 of 2021

In respect of the decision of the respondent – scrutiny committee in present matters to undertake the review of earlier validity holders, we have a serious doubt as to if it can independently resort to such an exercise in respect of the validities granted by this Court particularly when the orders passed by this Court are not put to any challenge. Obviously, fraud vitiates everything and if at all some fraud was practised even on this Court while obtaining the validity certificates, it would always be open to scrutiny. However, so long as the orders passed by this Court granting blanket validity certificates stand, the blood relations from the paternal side like the petitioners cannot be refused the validity certificates.

18. The respondent committee has been alive to all such facts and still for the reasons best known to it, has chosen to overlook such previous validities granted by this Court.

19. In our considered view, the approach of the scrutiny committee does not abode well with the principle of law and judicial discipline. Merely drawing some inferences about fraud would not be sufficient. It would be imperative for the committee to take positive steps to rectify all the errors which according to it have emanated labouring under such fraud. As of now none of the validities granted by this Court have been put to any challenge much less sought to be re-opened.

20. For that matter, admittedly, apart from these 7 validity holders, there are as many as 17 blood relations from the paternal side of the petitioners have been issued validity certificates by different committees from Nasik, Pune, Thane and Nandurbar. It would, therefore, be necessary for the scrutiny committee to undertake a fresh scrutiny in respect of all those individuals which would obviously be a herculean task and would take years.

21. At the present we are bound by the decisions taken by this Court in the matter of 7 validity holders and petitioners being the blood relations from their paternal side are entitled to the validities as well. Admittedly, the validities granted by this Court were not even conditioned upon the cases to be re-opened and are blanket validities. If this be so, we are left with no alternative but to follow the course, as laid down in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (supra).

22. The writ petitions are allowed.

23. The impugned orders are quashed and set aside.

24. The respondent – scrutiny committee shall now immediately issue validity certificates to all these petitioners as expeditiously as possible and in any case within two weeks.

25. Rule is made absolute in the above terms in all these matters.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/