

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

WRIT PETITION NO. 14558 OF 2021

Shachi d/o Sunil Thakur,
Age- 24 years, Occ. Student,
R/o Waghlud (Bk), Tq. Dharangaon,
Dist. Jalgaon .. Petitioner

Versus

1. The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai-32.
Through its Secretary.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar Division,
Nandurgar.
Through its Member Secretary.
3. Maharashtra University of Health
Sciences, Dindori Road, Mhasrul,
Nashik-42204, Tq. & Dist. Nashik.
Through its Registrar.
4. Mahatma Gandhi Vidyamandir's
Karmaveer Bhausaheb Hiray Dental
College & Hospital, Mumbai Agra
Highway, Panchati, Nashik,
Tq. & Dist. Nashik.
Through its Principal. .. Respondents

**AND
WRIT PETITION NO. 8669 OF 2019**

Rashmi d/o Sunil Thakur,
Age- 24 years, Occ. Student,
Presently residing at – 12, Ameya

Apartment, Gaikwad Mala,
Opp: Paprikar Hospital,
Bitco Point, Nashik Road,
Nashik, Tq. & Dist. Nashik.

.. Petitioner

Versus

1. The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai-32.
Through its Secretary.
 2. The Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar Division,
Nandurgar.
Through its Member Secretary.
 3. The Director of Medical Education,
Medical College, Kumarepuram Road,
Chalakkuzha, Tiruvananthapuram
695011 (Kerala State).
 4. Government Medical College,
Tiruvananthapuram, Ulloor-Akkulam
Road, Near SAT Hospital, Medical College
Junction, Tiruvananthapuram
695011 (Kerala State).
- .. Respondents

Shri Sushant C. Yeramwar, Advocate for the Petitioner in both matters.

Shri A. A. Jagatkar, A.G.P. for the Respondents/State in both matters..

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

DATE : 04 AUGUST 2023.

FINAL ORDER (*Per Shailesh P. Brahme, J.*) :-

. Heard both sides finally at admission stage considering

urgency expressed in the matters.

2. Both the petitioners are real sisters *inter se*. Their caste certificates for 'Thakur' (Scheduled Tribe) are invalidated by distinct orders passed by the Scrutiny Committee, which is the subject matter of the petitions. As there is common record, petitions are decided together.

3. The petitioners are relying upon the validity certificates of Vaishali Chhannu, old record of Baburao Raoji, Dattatraya Baburao and Sunil Dattatraya and other documentary evidence. According to them the Scrutiny Committee has committed perversity in rejecting the claims considering the judgment of the Supreme Court in the matter of **Maharashtra Adivasi Thakur Jamat Swarakshak Samiti Vs. State of Maharashtra and others, 2023(2) Mh.L.J. 785.**

4. The learned Assistant Government Pleader supports the impugned judgment and order. He submits that the Scrutiny Committee has rightly rejected the caste claims of the petitioners considering the school record which was incompatible with the claims. The Committee is justified in discarding the validity certificates. The affinity test is also recorded against the petitioners.

5. The learned A. G. P. has produced on record original files of both the petitioners. The coloured photo copies of school entries

of Dattatraya and the orders passed by the Committee are shown to us. It is further informed that the Scrutiny Committee has decided to reopen the matter of validity holder.

6. The petitioners are relying upon validity certificate of Vaishali, who is paternal side close relatives of the petitioners. The learned A. G. P. is unable to point out any circumstance for discarding the validity certificate. Her validity was secured by following due procedure of law and by reasoned order. We are of the considered view that the validity certificate is reliable. We have also noticed old documents of Baburao Dattatraya and Sunil. The school record of Baburao and Dattatraya are of pre-independence period. They have greater probative value. Those should have been relied and accepted by the scrutiny committee. We hold that the Scrutiny Committee has committed patent illegality in rejecting the claims of the petitioners.

7. It is seen from the original record that colour photo copy of school record of Dattatraya bearing entry No. 43 shows caste Thakur. Equally there is contrary entry of Dattatraya showing caste as Brahma Bhat. There are corroborative entries on record to support the claim of the petitioners. Few contrary entries cannot impress us to deprive the petitioners from the validity certificates.

8. The Scrutiny Committee has already undertaken to conduct reverification. It has power to consider objectionable

material. However, till the validity certificate of Vaishali is revoked, the petitioners cannot be denied the equal social status.

9. We hold that the impugned judgments and orders are unsustainable in law. We dispose of the writ petitions by passing following order.

ORDER

- A. The writ petitions are partly allowed.
- B. The impugned orders are quashed and set aside. The Scrutiny Committee shall issue tribe validity certificates to the petitioners of 'Thakur' (Scheduled Tribe).
- C. These validities shall be subject to the decision to be taken by the Scrutiny Committee in the reopened matters.
- D. The petitioners shall not be entitled to claim equities.
- E. Parties to act on authenticated copy of this order.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]