

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

WRIT PETITION NO.8527 OF 2010

Nilesh s/o Prakash Thakur

... **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, Nandurbar, through
its Member Secretary.
3. The Sub-Divisional Officer,
Jalgaon Division, Jalgaon
4. KKWES's K.K. Wagh Institute
of Engineering Education &
Research, Amrutdham Panchavati
Nashik through its Principal
5. Pune University, Pune
through Registrar

... **RESPONDENTS**

...

Advocate for petitioner : Mr. M.A. Golegaonkar h/f. Mr. A.S. Golegaonkar
AGP for respondent Nos.1 to 3: Mr. V.M. Jaware

...

CORAM : **MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : **01.12.2023**

PER COURT:

Heard.

2. The petitioner is invoking the powers of this Court under
Article 226 of the Constitution of India in putting up a challenge to the

order of Scrutiny Committee passed in a proceeding under Section 7 of the Maharashtra Act XXIII of 2001, thereby, confiscating and cancelling his 'Thakur' scheduled tribe certificate.

3. We have carefully gone through the papers and appreciated the rival submissions.

4. As far as the relationship is concerned *qua* the petitioner with the validity holders, the Committee has not disputed it in the impugned order. Admittedly, petitioner's first degree paternal uncle Sanjaykumar Arjunrao Saindane whose claim was similarly invalidated had approached this Court in Writ Petition No.1059/1995. By the order dated 29.11.2003 he was found entitled to have a certificate of validity of 'Thakur' scheduled tribe. The decision has reached finality.

5. Subsequently, the petitioner's real sister Vaishali was also found entitled to have a certificate of validity pursuant to the order of the Committee dated 15.04.2005. Even that has reached finality.

6. The Committee has refused to extend the benefit of these two validities to the petitioner on the ground that affinity test was not applied and pursuant to the direction in the matter of **Ku. Madhuri Patil and Anr. Vs. Additional Commissioner Tribal Development Thane and Ors.; (1997) 5 SCC 437** each case was supposed to be decided on its own merits.

7. Suffice for the purpose to observe that in the light of the decision in the matter of **Anand Vs. Committee for Scrutiny and**

Verification of Tribe Claims and Ors.; (2012) 1 SCC 113 and Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.; 2023 SCC Online SC 326 importance of affinity test has been diluted and is limited.

8. So far as the decision of individual case on its own merits is concerned, again, in the light of the observations in **Maharashtra Adiwasi Thakur Jamat** (supra) in paragraph Nos.22 to 24, once having noticed that petitioner's paternal uncle Sanjaykumar was granted certificate of validity pursuant to the order of this Court, it can certainly be said that he was granted certificate of validity by following due process of law. If that be so, that in itself is a clinching material based on which the petitioner being a first degree nephew is entitled to have a certificate of validity.

9. The writ petition is allowed. The impugned order is quashed and set aside. The respondent - Committee shall immediately issue a certificate of validity of 'Thakur' scheduled tribe to the petitioner.

10. Pending Civil Application is disposed of.

(NEERAJ P. DHOTE, J.)

(MANGESH S. PATIL, J.)