

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

WRIT PETITION NO. 8502 OF 2020

1. YASH KADUBA BAWASKAR

2. AARTI KADUBA BAWASKAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioners : Mr. S.C. Yeramwar
Addl. GP for Respondent Nos. 1 & 2 : Mr. P.S. Patil

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

DATED : 18 AUGUST, 2023

PER COURT (PER : SHAILESH P. BRAHME, J) :

1. Heard both the sides finally.
2. A common judgment and order dated 06.10.2020, is under challenge in the present petition. The caste claim for 'Thakur' scheduled tribe is rejected by the Scrutiny Committee.
3. Learned counsel for the petitioner submits that there is per-independence record to support the caste claim. He would rely upon validity certificates of real brother Abhijeet which was issued after following due procedure of law. According to him, the Scrutiny Committee has committed patent illegality in rejecting the caste claim.
4. Per contra, learned AGP would support the impugned

judgment and order. According to him, the genealogy, relied by the petitioners is inconsistent with the genealogy transpired during enquiry. Kalpana who was issued with validity certificate is sought to be relied upon by Abhijeet. Kalpana has filed a false affidavit. The validity certificate of Abhijeet is procured fraudulently.

5. Learned AGP would submit that the School record would indicate caste of the petitioners as 'Bhat Thakur'. An enquiry into the place of residence, surname, traits has indicated non triable 'Thakur'. He would further submits that the affinity test is rightly recorded against the petitioners.

6. We find that the school records of the close relatives of the petitioners consistently indicate caste as 'Thakur' scheduled tribe. Amongst the school entries, page no. 46 and 47 are the entries of pre-constitutional period indicating caste as 'Thakur'. The entries have greater probative value. In view of judgment of the Supreme Court in the matter of Anand Versus Committee for Scrutiny and Verification of Tribe Claims & Others, **2011 (6) Mh. L.J. 919**, the entries candidly support the petitioners.

7. There is validity certificate issued to real brother of the petitioners Aditya. Unless and until the same is revoked by conducting

re-verification, we cannot deprive the petitioners from equal social status. We find that the Scrutiny Committee has committed patent illegality in rejecting the caste claim.

8. Learned AGP has informed that the Scrutiny Committee has issued show cause notices to the validity holders. We do not propose to offer any comments on the submissions of learned AGP pertaining to the suspicious genealogy, fraud played by Abhijeet or Kalpana. It is open for the Scrutiny Committee to examine these aspect of the matter. We are of the considered view that the petitioners are entitled to conditional validity.

9. Learned counsel for the petitioner has placed on record judgment passed by our bench in Writ Petition No. 13390 of 2021, in the matter of Chandrashekhar Balaji Shinde Versus The State of Maharashtra and another. Our observations in respect of area restriction, old record are applicable to the present case.

10. We find that impugned judgment and order is unsustainable. For the reasons stated above, we pass following order :

ORDER

- i. 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 ‘Thakur’ 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.

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

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)