

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

WRIT PETITION NO. 7197 OF 2021

Sujit s/o Balasaheb Bedare,
Age 21 years, Occu. Student,
R/o Gujwadi, Taluka and
District Osmanabad.

.. Petitioner

Versus

1. The State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad, through
its Member Secretary.
3. The Sub Divisional Magistrate,
Osmanabad, District Osmanabad. .. Respondents

**WITH
WRIT PETITION NO. 9644 OF 2021**

Kum. Mohini d/o Bhaskar Bedare,
Age 21 years, Occu. Nil,
R/o Yedashi, Taluka and
District Osmanabad.

.. Petitioner

Versus

1. The State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate

Scrutiny Committee, Aurangabad
Division, Aurangabad, through
its Member Secretary.

3. The Sub Divisional Magistrate,
Osmanabad, District Osmanabad. .. Respondents

**WITH
WRIT PETITION NO. 7196 OF 2021**

Saguna d/o Tukaram Bedare,
Age 30 years, Occu. Nil,
R/o Yedashi, Taluka and
District Osmanabad. .. Petitioner

Versus

1. The State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad, through
its Member Secretary.
3. The Sub Divisional Magistrate,
Osmanabad, District Osmanabad. .. Respondents

**WITH
WRIT PETITION NO. 8219 OF 2020**

Dhananjay s/o Vitthalrao Bendare,
Age 45 years, Occu. Service,
R/o Yedashi, Taluka and
District Osmanabad,
at present RS No. 234/2A,
Plot No. 19, Majgaonkar Colony,
Kalba, Kolhapur, Dist. Kolhapur. .. Petitioner

Versus

1. The State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad, through
Its Member Secretary.
3. The Executive Magistrate,
Kallamb, Taluka Kallamb,
District Osmanabad.
4. The Private Education Society,
Kolhapur, through its Secretary.
5. The Nutan Marathi Vidyalaya
High School, Mangalwar Peth,
Kolhapur, through its Head Master. .. Respondents

Shri A. S. Golegaonkar, Advocate h/f Shri M. A. Golegaonkar,
Advocate for the Petitioner in all matters.

Shri A. S. Shinde, A.G.P. for the Respondent Nos. 1 to 3 in all
matters.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 25 JULY 2023.**

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

. Heard learned counsel for the respective sides and taken
up for final disposal at the admission stage.

2. All these petitioners are challenging common judgment
and order dated 12.11.2020 passed by the respondent No.

2/Scrutiny Committee invalidating their caste claims and confiscating caste certificates. All the petitioners are related *inter se*. There is common record to assess their caste status. Therefore, these petitions are being decided by this common order. For the sake of convenience the documents in Writ Petition No. 7197 of 2021 (Sujit Balasaheb Bendare Vs. The State of Maharashtra and others) are referred to.

3. The petitioners are relying upon the validity certificates issued in their family in the name of Ganesh Jalindhar Bendare, Pandurang Ramchandra Bendare, Smt. Sonali Baburao Bendare, Smt. Rupali Baburao Bendare, Dnyaneshwar Ashok Bendare, Sanjay Balasaheb Bendare and Rani Bhaskar Bendare. They are also relying on the entries in the school record of the blood relatives, genealogy, revenue record and the affidavits.

4. The learned Assistant Government Pleader would support the impugned judgment and order. The contrary entries are pointed out which are at page No. 90 of the paper book in respect of Rahibai Krushna Bendare, Jalandhar Chandrabhan Bendare, Vitthal Bhagwan Bendare and Jankabai Laxman Bendare which are very old. He would submit that the scrutiny committee has rightly recorded that the school entries of the relatives do not show caste Thakur (scheduled tribe). It is rightly observed that there is similarity in the nomenclatures of Thakur and Thakur (Rajput), Thakur (Pardeshi) and Thakur (Shkatriya) but they are included in non tribal uppar caste.

5. The learned A. G. P. would also point out that few entries in the school record of the relatives denote Maratha or non tribal Thakur, which are incompatible with the claim of the petitioners. The place of the residence of the petitioners and their ancestors transpired during the enquiry is inconsistent with the original place of residence of the Thakur (scheduled tribe). It was also noticed that the ancestors of the petitioners have not migrated from the ordinary place of residence of the Thakur (Scheduled Tribe).

6. The learned A. G. P. would point out that the validity certificates of the blood relatives were procured by suppressing material facts and misleading genealogy. Few validity certificates were obtained in collusion with the then Assistant Commissioner. Those validity certificates are not reliable. The Committee has proposed to reopen all the validity certificates.

7. Lastly it is submitted by the learned A. G. P. that the affinity test is rightly recorded against the petitioners. According to him the impugned judgment and order does not suffer any perversity or illegality.

8. We have considered rival submissions canvassed by the learned counsel for the respective parties.

9. The genealogy is placed on record which is at page No. 56 of the paper book. The relationship of the petitioners with the validity holders is not disputed. The validity certificates

produced by the petitioners in their support are of close blood relatives on paternal side. The learned A. G. P. could not point out any circumstance to discard the validity certificates. Just because the scrutiny committee has undertaken re-verification of the validity holders that cannot be a ground to deprive the petitioners from the caste benefits on the ground of parity. We are fortified in our view by 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.**

10. We have also noticed the revenue entries of village Form No. 14 of the year 1913 which is at page No. 61 recorded in the name of Ganu Bapu Bedare showing caste as Thakur, which has greater probative value. We do not find that the scrutiny committee has considered this entry in a proper perspective.

11. The submissions of the learned A. G. P. that there are contrary entries of the old record which stand cannot be gone into presently. It is for the scrutiny committee to examine this aspect of the matter during the course of re-verification.

12. The scrutiny committee has committed patent illegality in rejecting the caste claims of the petitioners. The petitioners are discriminated by the impugned judgment and order. We are, therefore, inclined to allow the writ petitions by passing following order.

ORDER

- A. The writ petition is partly allowed.
- B. The impugned common judgment and order dated 12.11.2020 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.
- C. The respondent No. 2/Scrutiny Committee shall issue validity certificates of 'Thakur' (Scheduled Tribe) to the petitioners within a period of two (02) weeks from today on following conditions.
- a) That the validity certificates shall be subject to outcome of reverification of the validity certificates undertaken by the Scrutiny Committee.
 - b) The petitioners shall co-operate with the Scrutiny Committee in the matter of reverification by the committee.
 - c) The Scrutiny Committee shall conclude the proceedings of reverification of the validity certificates of the validity holders relied by the petitioner as early as possible and preferably within a period of six (06) months from today.
 - e) The petitioners shall not claim any equities.
- D. The writ petition is disposed of. There shall be no order as to costs.

[SHAILESH P. BRAHME, J.]
bsb/July 23

[MANGESH S. PATIL, J.]