

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

WRIT PETITION NO. 8588 OF 2012

Rakesh s/o Kishor Thakur
Age : 23 years, Occu: Nil,
R/o : At Post : Amalthe,
Tal. Shinakheda, Dist. Dhule. .. Petitioner

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai-32.
- 2) The Committee for Scrutiny and
Verification of Tribe Claims,
Through its Dy. Director (Research),
Nandurbar.
- 3) The Zilla Parishad, Nandurbar,
Through its Chief Executive Officer. .. Respondents

Shri Sushant C. Yeramwar, Advocate for the Petitioner.
Shri P. S. Patil, Addl.G.P. for the Respondent Nos. 1 and 2.

**WITH
WRIT PETITION NO. 7532 OF 2023**

Yugandhara Narendra Mahale,
Age : 22 Yrs, Occu: Education,
R/o : Amalthe, Tq. Shindkheda,
Dist. Dhule, Presently residing at
Plot No. 115, Vighnaharta Colony,
Devpur, Dhule, Dist. Dhule. .. Petitioner

Versus

1. Scheduled Tribe Certificate Scrutiny Committee Dhule,
Through its Member Secretary.
2. Savitribai Phule Pune University,
Pune, Ganeshkhind Road, Pune,
through its Registrar.
3. College of Engineering Pune,
Wellesley Road, Shivaji Nagar, Pune,
Pune, Maharashtra – 411 005.
through its Principal. .. Respondents

Shri Mahesh S. Deshmukh, Advocate for the Petitioner.

Shri P. S. Patil, Addl.G.P. for the Respondent No. 1.

Shri V. P. Golewar, Advocate h/f Shri A. R. Joshi, Advocate for the Respondent No. 2.

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

DATE : 13 JULY 2023.

ORAL JUDGMENT (Per Mangesh S. Patil, J.) :-

. Heard learned advocate for the petitioners in both these petitions, learned Additional Government Pleader for the respondents and perused record.

2. Rule. It is made returnable forthwith. At the joint request of the parties matters are being disposed of finally at the stage of admission.

3. By way of these two separate writ petitions petitioners who are admittedly related by blood from paternal side are

impugning the orders passed by the respondent/Scrutiny Committees in their respective matters invalidating their claims as belonging to 'Thakur' (Scheduled Tribe).

4. Although the impugned orders have been passed separately based on the material that was available before the Scrutiny Committees, since there is no dispute about the relationship and the genealogy being relied upon by each of them and since it is a matter of social status where the blood relations from the paternal side are entitled to derive the benefit in common, in the light of the decision in the matter of **Maharashtra Adivasi Thakur Jamat Swarakshak Samiti Vs. State of Maharashtra and others, 2023(2) Mh.L.J. 785**, we propose to take up both these matters simultaneously irrespective of the material being relied upon by each of the petitioners and referred to by the Committees individually.

5. Though in the normal course this Court will have to undertake scrutiny as to the sustainability of the observations and conclusions of the Scrutiny Committee on facts and material available to it, in our considered view there are few decisive factors which would be sufficient to dispose of both these writ petitions even without going into the material/evidence discussed by the Scrutiny Committees.

6. As can be seen from the matter in Writ Petition No. 7552 of 2023, there are several validities including that of cousin brother

Vaibhav Subhash Thakur whose claim was validated by this Court in Writ Petition No. 5940 of 2008 by order dated 09 October 2009. S.L.P. No. 18832 of 2011 filed by the State was dismissed by the Supreme Court on 21 November, 2011. For that matter, even there is reference to this in the impugned order of the Scrutiny Committee. Pertinently, the Scrutiny Committee has not even commented upon this aspect regarding validity of Vaibhav Subhash Thakur, which has been confirmed upto the Supreme Court inspite of the fact having been brought to its notice.

7. Conversely, ignoring matter of validity of Vaibhav Subhash Thakur reference is made to one of the blood relations by name Someshwar Waman Thakur whose claim was invalidated by the Scrutiny Committee on 17 April 2012. He had approached this Court in Writ Petition No. 4386 of 2012, but the writ petition was dismissed by order dated 23 October 2012 and the order was challenge by Someshwar Waman Thakur in the Supreme Court and the SLP No. 3877 of 2012 is pending.

10. Again, as can be seen from the impugned order in Yugandhara's matter the Committee has decided to go for review/recall and intends to reopen the matters of some of the blood relations of the validity holders namely Narendra Yuvraj Mahale, Jitendra Yuvraj Mahale, Subhash Yadav Thakur and Smt. Sadhana Yuvraj Mahale.

11. The Committee has also observed that it intends to file a review petition in the matter of other validity holders whose claims have been decided by this Court in Writ Petition No. 2720 of 2014 and Writ Petition No. 2707 of 2014 namely Kum. Priyanka Kanhaiyalal Thakur and her father Kanhaiyalal Shivaji Thakur. In spite of having taken labour to apply the mind and to even determine the future course to be taken up in other matters and the validity holders including Priyanka and Kanhaiyalal to whom this Court had granted blanket validity, there is not a whisper in respect of validity granted to Vaibhav Subhash Thakur which was confirmed upto the Supreme Court. Interestingly in the matter of Someshwar Waman Thakur there was no reference to the validity of Vaibhav Subhash Thakur when Someshwar's matter was decided on 23 October 2012 and Vaibhav's validity could have been brought to the notice of this Court when his petition was being decided.

12. Be that as it may, this Court having granted validity to Vaibhav in the year 2009 which was confirmed by the Supreme Court in the year 2011, Someshwar's decision by this Court ignoring such previous validity cannot be a ground to refuse validity to these petitioners.

13. Irrespective of the intention of the Scrutiny committee and the reasons there-for to go for review in respect of several validity holders but not Vaibhav, we are faced with a situation where it is a matter of fait accompli.

14. The learned Additional Government Pleader strenuously attempted to persuade us to keep all the avenues to the Scrutiny Committee open for undertaking recalling of the orders or even for going for review and requests to grant only conditional validities to these petitioners.

15. In our considered view, it would always been open for the Scrutiny Committee if it has power and is able to make out a ground for review to take appropriate steps. However, when there are blanket validities granted to Vaibhav, Priyanka and Kanhaiyalal by this Court and one of which even has been confirmed by the Supreme Court, we have no option but to allow the writ petitions and grant validities to the petitioners.

16. The writ petitions are allowed. The impugned orders are quashed and set aside. The respondent/Scrutiny Committees shall now issue validity certificates to the petitioners as belonging to 'Thakur' (Scheduled Tribe) as expeditiously as possible and in any case within a period of two (02) weeks from today. The writ petitions are disposed of.

Rule is made absolute in above terms.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]