

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

WRIT PETITION NO.10198 OF 2023

Prathamesh s/o Bhanudas 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, Kinwat
Headquarter – Aurangabad
through its Member Secretary ... **RESPONDENTS**

AND

WRIT PETITION NO.10199 OF 2023

Pratiksha d/o Balaji Shinde ... **PETITIONER**

VERSUS

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Department of Tribal Development
Mantralaya, Mumbai – 32
through its Secretary
2. The Scheduled Tribe Certificate
Scrutiny Committee, Kinwat
Headquarter – Aurangabad
Tq. and Dist. Aurangabad
through its Member Secretary ... **RESPONDENTS**

...

Advocate for Petitioner/s : Mr. Sushant C. Yeramwar
A.G.P. for respondent/State : Mr. S.K. Tambe

...

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

DATE : 18.08.2023

ORDER (MANGESH S. PATIL, J.) :

The petitioners are real cousins and are challenging the separate orders passed by the respondent – Scrutiny Committee in their

respective matters thereby confiscating and cancelling their tribe certificates as belonging to 'Thakur' scheduled tribe. Though the orders are separate those are almost similar. Considering the exigency both these writ petitions are taken up for final disposal at admission stage.

2. We have heard both the sides extensively and perused the papers.

3. The impugned order gives a list of school record and birth record of several blood relations of the petitioners from the paternal side right from the year 1953 describing them as 'Thakur'. There is no contrary entry noticed by the Committee *albeit* in respect of petitioner Prathamesh's father Bhanudas, the school record of the year 1985 was found to be written in different ink. No other contrary record was found by the Committee. The Committee refuses to treat this as favourable entries by drawing an inference by resorting the principle of area restriction which has lost its significance in view of the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 and the **Palaghat Jila Thandan Samuday Sanrakshan Samiti and Anr. Vs. State of Kerala and Anr.; (1994) 1 SCC 359.**

4. The Committee has referred to some recitals in the sale deed executed by the petitioners' grandfather, wherein, a statement has been made that he did not belong to any tribe. In our considered view, an individual cannot renounce the caste just by making such declaration which he in all probability must have made to come out of the rigours of seeking permission to be obtained to sell a land by a tribal. We, therefore, cannot

subscribe to the view of the Committee that by making such a declaration in a sale deed the petitioners' grandfather had renounced his caste. Besides, even if that be so, the petitioners cannot be attributed with the statement in the sale deed.

5. Admittedly, petitioner Pratiksha's real brother Chandrashekhar Baljirao Shinde has been granted certificate of validity pursuant to the order of this Court in Writ Petition No.13390/2021 dated 08.08.2023 for the detailed reasons mentioned therein. Since it is a matter of social status, our observations in that matter can also be resorted, to substantiate the petitioners' claim as belonging to 'Thakur' scheduled tribe.

6. The writ petition is partly allowed. The impugned order is quashed and set aside. The Committee shall immediately issue tribe validity certificate to the petitioners 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.

7. The Petitioners shall not be entitled to claim any equities.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)