

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 6574 / 2023

Suraj s/o Suryakant Suryawanshi

...Petitioner

Versus

1. The State of Maharashtra,
Through Secretary
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad Division,
Dist. Aurangabad,
through its Member Secretary.
3. Sub-Divisional Office
Ambejogai, Dist. Beed.
4. The Shivaji University, Kolhapur,
Dist. Kolhapur, through its Registrar.
5. Rajarambapu Institute of Technology,
run by Kasegaon Education Society,
Rajaram Nagar (Islampur)
Dist. Sangali.

...Respondents

WITH

Civil Application No. 10688 / 2023

IN

Writ Petition No. 6574 / 2023

Organization for the Rights of the Tribals

...Applicant

Versus

1. Suraj s/o Suryakant Suryawanshi
2. The State of Maharashtra,
Through its Secretary

...Respondents

Mr. M. A. Golegaonkar, Advocate for the Petitioner.

Mr. S.G. Sangale, AGP for respondents/State.

None for the Applicant.

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

DATE : 24 AUGUST 2023.

FINAL ORDER [SHAILESH P. BRAHME, J.] :

. Heard both the sides finally at the admission stage.

2. The petitioner is assailing the judgment and order dated 02.12.2022 passed by the respondent no.2/Scrutiny Committee, invalidating his claim as belonging to Thakar scheduled tribe. It is contended that considering the validity certificate issued to the paternal side relatives especially father of the petitioner, there is no reason to deny the social benefit to the petitioner.

3. The learned AGP supports the impugned judgment and order. According to him, the school record of the relatives was found to be incompatible. There is no consistent and cogent evidence to support the petitioner's claim. The extract of the census is not admissible.

4. We have considered rival submissions of the parties. The genealogy produced on record at page no. 95 is not disputed. The father of the petitioner was issued with validity certificate. There is no dispute that the father was issued with validity certificate after following due procedure of law. The learned AGP has unable to point out any circumstance to doubt the validity certificate.

5. The selfsame record comprising of old entries were considered by the Scrutiny Committee. The successive Committee has no jurisdiction to record contrary finding on the basis of already considered record. We find that the Scrutiny Committee has committed grave error of jurisdiction.

6. The learned AGP would point out that the affinity test was recorded against the petitioner and the place of residence of forefather of the petitioner is found to be inconsistent. It is settled position that the affinity test is not a litmus test and lone decisive parameter. After the removal of area restriction, the enquiry into place of residence of the claimant or his forefathers is redundant.

7. It is informed that the Scrutiny Committee has proposed re-verification of the validity holders. The petitioner is entitled to conditional validity.

8. We find that the impugned judgment and order is liable to be quashed. We, therefore, pass the following order.

ORDER

- (i) The writ petition is partly allowed.
- (ii) The judgment and order dated 02.12.2022 passed by the Scrutiny Committee is quashed and set aside.
- (iii) The Scrutiny Committee shall issue tribe validity certificate of 'Thakar' scheduled tribe to the petitioner forthwith, which shall be

subject to the outcome of the re-verification proposed by the Scrutiny Committee.

(iv) The petitioner shall not be entitled to claim equities.

(v) Civil Application No.10688/2023 is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]