

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

WRIT PETITION NO.10438 OF 2023

Bhuvaneshwari d/o Hitendra Thakur ... **PETITIONER**

VERSUS

1. State of Maharashtra
 through its Secretary, Tribal
 Development Department
 Mantralaya, Mumbai – 400 032

2. Scheduled Tribe Certificate
 Scrutiny Committee, Dhule
 through its Member Secretary,
 having its office at Dhule
 Dist. Dhule

... **RESPONDENTS**

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Advocate for Petitioner : Mr. Phatale Sagar S and R.K. Mendadkar
A.G.P. for respondents : Mr. A.A. Jagatkar

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

DATE : 25.08.2023

ORDER (MANGESH S. PATIL, J.) :

The petitioner is challenging invalidation of her claim as belonging to ‘Thakur’ scheduled tribe.

2. Since the petitioner is in urgent need to secure her admission in the current admission process, we have heard both the sides and perused the record. At the outset, it is necessary to observe that the Committee has not disputed the genealogy rather it has reproduced it in the impugned order itself.

3. Admittedly, petitioner's father Hitendra has been issued with a certificate of validity. Even her paternal uncle Milind possess a certificate of validity. The Committee has refused to extend the benefit of these two validities to the petitioner on the ground that they had obtained certificates of validity by suppression of facts. It is alleged that conveniently in respect of such relations where there are contrary entries as Bhat their record has been concealed. Whether this would constitute a fraud or otherwise is an issue which we do not intend to deal with.

4. Since it is a matter of fraud, we do not intend to comment on the powers of the Committee to undertake such review or reopen the inquiries. Even if it has such a power, we do not intend to make any observations touching the circumstances which according to the Committee constitute fraud, for two reasons. Since it is an issue which is directly and substantially under consideration of the Scrutiny Committee we cannot make any observation which could have some bearing on that inquiry. Secondly, the validity holders are not before us. We also do not intend to cause any prejudice to them by making certain observations touching the alleged fraud. We leave it at that.

5. Even going by the material that was available to the Scrutiny Committee and referred to in the impugned order, there were at least two older entries in respect of petitioner's great great grandfather Manik Pandu Thakur in whose school record he was described as Thakur which entry is of 02.09.1916, whereas, the other entry is in respect of Manda Ramsingh

Dayaram Bhat sister of the great great grandfather which is a birth record of 21.06.1930 mentioning her caste as Thakur. The Committee has refused to rely upon these two entries by observing that the entries in respect of the birth record and the school record of the family members of the subsequent period between the 1938 to 1942 described the petitioner's blood relations as Bhat. The Committee therefore observed that if really the oldest entries were genuine, there was no reason why the entries for the subsequent period could have been Bhat. In our considered view such an observation and inference is perverse and arbitrary and clearly ignores the observations in the matter of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors.; (2012) 1 SCC 113**. Since the oldest two entries pertaining to the great great grandfather and great great grandfather's sister described them as Thakur, the Committee could not have discarded those.

6. Even if now the Committee intends to reopen the cases of the validity holders, petitioner's father Hitendra and paternal uncle Milind, till those are not confiscated and cancelled by following due process of law, the petitioner cannot be deprived of the benefit.

7. The writ petition is partly allowed. The impugned order is quashed and set aside. The respondent-committee shall immediately issue tribe validity certificate to the petitioner 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.

8. The petitioner shall not be entitled to claim equities.
9. Learned A.G.P. to immediately communicate the committee about passing of this order.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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