

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

**WRIT PETITION NO. 3324 OF 2020
WITH CA/11284/23 IN WP/3324/2020**

Sakshi d/o Dharmendrasingh Chauhan,
Age 22 years, Occ. Education,
R/o. Uday Nagar, Nanded Road, Udgir,
District Latur.

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,
Through Secretary to Tribal Development
Department, Mantralaya, Mumbai.
- 2) The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad
Through its Dy. Director (R)
Aurangabad.
- 3) The Principal,
College of Pharmacy Solapur
Jule Solapur-1, Vijapur Road,
Solapur, District Solapur.
- 4) The Registrar,
University of Solapur
Solapur Pune High Way, Kegaon,
Solapur, Dist. Solapur.
- 5) The Principal
Maharashtra Udaygiri College,
Udgir, Tq. Udgir, Dist. Latur.

... **Respondents**

**WITH
WRIT PETITION NO. 13061 OF 2021**

Piyush s/o Surendrasingh Chauhan,
Age 21 years, Occ. Education,
R/o. 27, Chetak Niwas, Uday Nagar,
Nanded Road, Udgir, Tq. Udgir,
Dist. Latur.

... **Petitioner**

VERSUS

- 1) The State of Maharashtra,
Through Secretary to Tribal Development
Department, Mantralaya, Mumbai.
- 2) The Scheduled Tribe Caste Certificate
Verification Committee, Aurangabad
Through its Dy. Director (R)
Aurangabad.
- 3) The Principal,
Hawagiswami College, Udgir,
Dist. Latur.

... Respondents

...

Advocate for the Petitioners : Mr. S.M. Vibhute
A.G.P. for the Respondents/State : Mr. S.G. Sangale
Advocate for Respondent No. 4 in WP No. 3324/2020 : Mr. Sachin S.
Deshmukh

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

DATE : **12.10.2023**

PER COURT :

The petitioners who are first degree cousins are challenging a common order passed by the respondent-scrutiny committee in a proceeding under Section 7 of the Maharashtra Act XXIII of 2001, thereby confiscating and cancelling their certificates of 'Thakur' scheduled tribe issued under Section 4 of that Act.

2. The learned advocate Mr. Vibhute for the petitioners would submit that admittedly, petitioner Sakshi's real brother Pranav and petitioners' first degree uncle Shailendra Dattusingh Chauhan possess certificates of validity. In fact, Shailendra's claim was rejected by the authority and in an appeal the Commissioner had allowed the claim and directed a certificate of validity to be issued to him by a detailed order dated 02.07.1991, after considering all

the aspects. He would submit that though the committee has now castigated Pranav of having obtained certificate of validity by resorting to some fraud, till the time his certificate of validity is not confiscated and cancelled by following due process of law, the petitioners cannot be denied of seeking the advantage. He would submit that as far as validity granted to Shailendra, since he was granted the validity in appeal way back in the year 1991, the petitioners are entitled to derive its benefit as well.

3. Mr. Vibhute would further submit that though it is a matter of record that a similar claim of petitioner Piyush's father Surendra was invalidated, that order has been under challenge in Writ Petition No. 11127/2019 which is pending in this Court. He would submit that it is also a matter of record that Shailendra's sister Jagrani had faced invalidation way back in the year 1997 which has been confirmed even up to the High Court in the year 2003 but, that decision cannot prevent the petitioners from seeking validity by leading cogent and convincing evidence. He would submit that the committee has observed that such invalidation was concealed from the committee while obtaining the certificates of validity by Pranav and Shailendra. Such approach of the committee is not proper. The petitioners are in urgent need of the decision and are ready to run the risk of facing the consequences depending upon the decision in the matters of Pranav and Shailendra which the committee has decided to reopen, as contemplated in the matter of **Shweta Balaji Isankar Vs. State of Maharashtra and others (Writ Petition No. 6320 of 2017)**.

4. The learned A.G.P. opposes the petition. He submits that several contrary entries were revealed in the vigilance enquiry which have been specifically mentioned in the impugned order. The petitioners' claim to be belonging to 'Thakur' scheduled tribe. These contrary entries are of Rajput, Rajput Bhamta, Rajput Bhatke, Hindu Rajput (Bhamta), Pardeshi which are clearly inconsistent with the petitioners' claim. He would submit that the committee has considered all the aspects and has taken a plausible view

which cannot be interfered with in exercise of the powers under Article 226 of the Constitution of India.

5. We have carefully considered the rival submissions and perused the papers. Admittedly, Pranav and Shailendra have been granted certificates of validity by following due process of law albeit, according to the committee they were able to do so by resorting to fraud. Since both these individuals are not before us, it would not be appropriate for us to deal with this aspect of alleged fraud.

6. Besides, it would be a matter which would be directly and substantially in issue in the matter which the committee has decided to reopen. The fact remains that till the time -the certificates of validity are not confiscated and cancelled by following due process of law those would hold good and the petitioners cannot be deprived of seeking the benefit, more so when it is not the observation of the committee that no process was followed when they were issued the certificates of validity. Rather, admittedly, Shailendra was granted certificate of validity by the appellate authority. Consequently, the petitioners would be entitled to derive the benefit of the decision in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023 SCC Online SC 326***, more so when the petitioners are ready to run the risk of facing the consequences as contemplated in the matter of **Shweta Balaji Isankar (supra)**.

7. Though the committee has referred to some contrary entries in the matter of Shailendra and Surendra, the impugned order itself points out that such corrections in the school record were made pursuant to the order passed by the Education Department, in all probability by resorting to Clause 26.4 of the Secondary School Code. Consequently, once such correction has taken place pursuant to the statutory provision for correction of the school record, it would not be a matter of further scrutiny as far as its

legality is concerned.

8. The Writ Petitions are partly allowed. The impugned judgment and order is quashed and set aside. The respondent-scrutiny committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Thakur' scheduled tribe in the prescribed format without adding anything. The validities shall be subject to the final outcome of the matters which the committee has decided to reopen.

9. The petitioners shall not be entitled to claim equities.

10. Civil Application No. 11284/2023 is disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-