

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

WRIT PETITION NO. 12022 OF 2023

Atharv s/o Gajanan Chavan,
Age : 17 years (Minor), Occu. Student,
U/g of mother, viz.
Meena w/o Gajanan Chavan,
Age : 46 years, Occu. Service,
R/o. House No. 649, CIDCO, N-5,
Arunoday Colony, Aurangabad,
Tq. & Dist. Aurangabad.

...Petitioner

Versus

1. The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai-32,
through its Secretary
2. The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad Division,
Aurangabad, Tq. & Dist. Aurangabad,
through its Member Secretary.

...Respondents

....
Mr. Sushant C. Yeramwar – Advocate for the petitioner
Mr. S. R. Yadav – Lonikar – AGP for respondent/State
.....

**CORAM : MANGESH S. PATIL
AND
NEERAJ P. DHOTE, JJ.**

DATED : 9 NOVEMBER 2023

JUDGMENT [Per : Neeraj P. Dhote, J.] :-

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties and taken up for final disposal at the stage of admission. Perused the papers.

2. The Petitioner has challenged the order dated 12.09.2023 passed by the Respondent No. 2 – Scrutiny Committee invalidating his claim towards 'Thakur' Scheduled Tribe.

3. It is submitted by the learned advocate for the Petitioner that, on the earlier occasion the Scrutiny Committee had invalidated the tribe claim of the Petitioner's real brother named Chinmay Gajanan Chavan and he had challenged the said invalidation by filing Writ Petition No. 202/2020 before this Court and by Judgment and Order dated 29.03.2022, this Court allowed the petition and directed the Scrutiny Committee to issue tribe validity certificate in favour of him towards 'Thakur' Scheduled Tribe. He submitted that, in addition to the said validity the old entry in the documents of Petitioners relative show the tribe as 'Thakur' and despite the clinching evidence available before the Respondent No. 2 – Scrutiny Committee, the petitioner's tribe claim has been invalidated. He submitted that in view of the judgments in the cases of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra Ors.** reported in **2023 SCC Online SC 326**, **Palghat Jilla Thandan Samudhaya Samrakshna Samithi and Another Vs. State of Kerala and Anr.** reported in **(1994) 1 SCC 359** and **Jaywant Dilip Pawar Vs. State of Maharashtra and Ors.** reported in **2018 (5) All MR 975**, the impugned order is unsustainable and liable to be set aside.

4. The learned AGP supported the impugned Judgment and Order of the Scrutiny Committee and submitted that, for the reasons mentioned in the impugned order, the Petition may be dismissed. The papers placed on record show that the Petitioner's brother had approached this Court in the aforementioned Writ Petition challenging his invalidation towards 'Thakur' Scheduled Tribe and this Court considered the production of the documents of the year 1948-49, wherein the tribe is mentioned as 'Thakur' by the Petitioner therein and has observed that the learned AGP for Respondent Nos. 1 and 2 could not dispute the said aspect. This Court also observed in paragraph no. 11 of the said judgment that the Petitioner therein had produced two crucial documents i.e. Primary School Certificate dated 07.03.1949 issued by the Headmaster of J.C. High School, Karanja in favour of the grandfather of the petitioner therein and Transfer Certificate dated 18.06.1948 showing caste as 'Thakur'. This Court has further observed in paragraph no. 12 that the Scrutiny Committee could not have overlooked the said two documents of the petitioner's grandfather. This Court in paragraph no. 16 observed thus: -

"16. In our view, the Scrutiny Committee ought to have considered the caste certificate claim on the basis of the documents relied by petitioner issued in favour of his grandfather for the period prior to 1950 showing the caste of his grandfather as Thakur and ought to have allowed claim of the petitioner. In our view, the impugned order is contrary to the principles laid down in above decision of Honourable Supreme Court in case of ***Jaywant Versus State of Maharashtra (supra)*** and catena of decisions in this regard as well as Judgment of this Court in the case of ***Shubham S. Suryawanshi Versus State of Maharashtra (supra)***.

5. Perusal of the impugned order shows that the Respondent No. 2 – Scrutiny Committee in paragraph no. 11 has considered the Judgment of this Court passed in the said Writ Petition filed by the petitioner’s brother, however, went on to observe that, on perusal of the original file of the said validity holder the entry Hindu (Thakur) (सुधारलेले) in the school record of his uncle was found and came to the conclusion that he belong to the Non-tribe i.e. higher caste. The learned AGP is unable to show as to how the Respondent No. 2 – Scrutiny Committee can ignore the findings and decision of this Court in the aforesaid writ petition of the Petitioner’s real brother and observed certain aspects without going into the review of the said decision. It is needless to state that till the said Judgment of this Court in the petitioner’s brother’s case is modified or set aside, the same will be binding.

6. In the backdrop of the above factual and legal aspects, there is no other order which can be passed in this petition except the one, allowing the petition and directing the Committee to issue Tribe Validity Certificate in favour of the Petitioner. Hence, we proceed to pass the following order.

ORDER

1. The writ petition is allowed.

2. 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.
 3. Considering the urgency and since the matter is being heard and decided urgently, we request the learned AGP to communicate this order to the Committee immediately, as the Law Officer of the Committee is present in this Court.
7. Rule made absolute in the aforesaid terms with no order as to costs.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE