

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4407 OF 2019

Abhijit Suryakant Thakar & Anr ...Petitioners
Versus
State of Maharashtra through its Secretary & Ors ...Respondents

Mr RK Mendadkar, *with Jayshri Mendadkar & Priyankar S, for the*
Petitioners.
Mr SB Kalel, AGP, *for Respondents Nos. 1, 2 & 4-State.*

CORAM G.S. Patel &
S.G. Dige, JJ.
DATED: 5th January 2023

PC:-

1. Rule. Returnable forthwith. The Petition is taken up for final disposal.
2. The two Petitioners, aged 18 and 20, assail the invalidation of their caste certificates by the 2nd Respondent, the Scheduled Tribe Caste Certificate Scrutiny Committee, Pune Division. The point involved is narrow. The Petitioners claim to belong to the Thakar Schedule Tribe.
3. We do not think it is necessary to enter into a detailed discussion regarding the law on this aspect and especially in the context of this particular Schedule Tribe. Various objections are

taken and have been dealt with. We considered a substantially similar matter just yesterday in Writ Petition No. 15826 of 2022. The present case also turns on two principal facets. The first is the entry in respect of the relatives of the Petitioners shown as *Marathi*. The case is that this negatives the claim of the Petitioners. The submission has been considered more than once by this Court and has been repelled each time.

4. More disturbingly, the impugned order of 24th July 2018 is contrary to the well settled law as enunciated by this Court 13 years ago in *Apoorva Vinay Nichale v Divisional Caste Certificate Scrutiny Committee No.1*.¹ What has happened here is that the Petitioners' father's caste validity certificate was produced as part of the documentary proof by both Petitioners. It is self-evident that the father's caste validity certificate had gone through some process before it was issued — the issuance of a validity certificate can only be done by a caste scrutiny committee. What the present committee did was to consider the caste validity certificate of the father and then proceed to hold that it was invalid because there was no vigilance enquiry.

5. There are so many problems with this approach that it is hard to know where to begin. *Firstly*, the father's caste certificate was not before this committee for decision at all. That validity had already been decided. *Secondly*, this approach presumes that every scrutiny committee has an infinite and inherent power of suo-motu review and can constantly reopen long-settled decisions of previous

1 2010 SCC OnLine Bom 1053 : (2010) 6 Mah LJ 401.

coordinate committees at any time. This is contrary to every known canon of jurisprudence in this country. *Thirdly*, the committee did not understand that such an order invalidating a relative's validity certificate is one that is a nullity and entirely without jurisdiction. It is void-ab-initio. *Fourthly*, but not least, we are surprised that the committee felt it could proceed in this fashion despite the binding decision of a Division Bench of this Court in *Apoorva's* case. We are clear that *Apoorva's* case binds us. We are indeed quite surprised to see that the caste scrutiny committee does not hold the same view. We find this in matter after matter, where binding decisions of this Court and sometime even of the Supreme Court are ignored by these caste scrutiny committees. We are now making this abundantly clear once and for all. This approach of ignoring binding decisions of this Court will never succeed and will never be tolerated. The validity certificate committee is a quasi judicial body. It is bound decisions of this Court and by the Supreme Court. It does not have to like those decisions. But it has to follow them. These scrutiny committees now run the very real risk of strictures and censures, perhaps worse.

6. Above all, the scrutiny committees must understand that it is a fundamental principle crucial to the Rule of Law that there must be certainty and finality. If old decisions are to be reversed several years later in totally separate proceedings, the result is simply jurisprudential anarchy.

7. The underlying principle in *Apoorva's case* prohibits or proscribes precisely that which this committee has done.

8. The result is inevitable. The Petition succeeds. The impugned order is quashed and set aside.

9. Both Petitioners are to receive their caste validity certificates immediately and without delay. Those certificates will be issued to the Petitioners no later than by 20th January 2023.

(S.G. Dige, J)

(G. S. Patel, J)