

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2878 OF 2022

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| 1. Sunil Murlidhar Thakur, |] |
| Aged 44 years, Occupation : On Contract |] |
| 2. Anil Murlidhar Thakur, |] |
| Aged 43 years, Occupation : On Contract |] |
| Both residing at Plot No.1, Abhiyanta Nagar, |] |
| Krishna Leela Apartment, Kamthewadi, |] |
| Nashik, Dist. Nashik |] .. Petitioners |

Versus

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| 1. State of Maharashtra, |] |
| Through its Secretary, |] |
| Tribal Development Department, |] |
| Mantralaya, Mumbai – 400 032. |] |
| 2. Scheduled Tribe Certificate Scrutiny Committee, |] |
| Nashik Division, Nashik, |] |
| Through its Member Secretary, |] |
| Having its office at Adivasi Vikas Bhavan, |] |
| Old Agra Road, Nashik, Dist. Nashik. |] .. Respondents |

Mr. R.K. Mendadkar (present through V.C.), with Ms. Komal Gaikwad and Ms. Priyanka Shaw, for the Petitioners.

Mr. S.L. Babar, AGP for the Respondent-State.

CORAM : A.S. CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ

DATE : 28TH NOVEMBER, 2023.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. RULE. Rule made returnable forthwith and heard finally with consent of

the learned counsel for the petitioners and learned AGP for the respondent-State.

2. Petitioners have challenged the order passed by the Scrutiny Committee on 12th August 2021, invalidating the petitioners' claim of belonging to "Thakur" Scheduled Tribe. The petitioners, in support of such claim, have relied upon various pre-constitutional documents of the years 1922 and 1931. These documents were verified by the Vigilance Cell, which found the said documents to be existing. The Scrutiny Committee, however, by holding that the petitioners did not demonstrate any affinity with the members belonging to the "Thakur" Scheduled Tribe community, invalidated such claim.

3. We have heard the learned counsel for the parties and we have perused the documents on record. Petitioner no.1 has filed an additional affidavit dated 25th July 2023, in which it is stated that his two other blood relatives, namely, Poonam Uttam Thakur and Ulhas Nimba Thakur, have been issued Validity Certificates by the Scrutiny Committee on 7th June 2023.

4. On perusing the material on record and the various documents relied upon as "Thakur" Scheduled Tribe, we find that there is no contrary entry indicating reference to any other Caste or the Tribe. In addition, two of the blood relatives of the petitioners have been granted such Validity Certificates. The only reason for invalidating the petitioners' claim is the absence of affinity with members of the Scheduled Tribes. This aspect has been recently considered

by the Hon'ble Supreme Court in *Maharashtra Adiwasī Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.*, 2023 (2) Mh.L.J. 785, wherein it has been held that the affinity test is not a litmus test and the documents of pre-independence era have to be given due importance since they carry great probative value. With passage of time, it cannot be expected that similar practices would continue even in modern times. We find that the ratio of the aforesaid decision would be attracted to the facts of the present case. In addition, a Coordinate Bench of this Court in *Apoorva Nichale Vs. Divisional Caste Scrutiny Committee*, (2010) 6 Mh.L.J. 401, has highlighted the importance of issuance of validity certificates to the claims of the blood relatives. We find the petitioners to be similarly situated.

5. For the aforesaid reasons, we find that the Scrutiny Committee misdirected itself while invalidating the petitioners' claim only for want of affinity. It is held that the petitioners have made out a case for grant of declaration that they belong to "Thakur" Scheduled Tribe. Accordingly, the order dated 12th August 2021 passed by the Scrutiny Committee is set aside. It is declared that the petitioners belong to "Thakur" Scheduled Tribe. The Scrutiny Committee is directed to issue Validity Certificate to the petitioners within a period of four weeks of receiving the copy of the judgment.

6. Rule is made absolute in the above terms with no order as to costs.

[FIRDOSH P. POONIWALLA, J.]

[A.S. CHANDURKAR, J.]