

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 877 OF 2023

1. Ms Purva Kishor More,
Aged 18 years, Occ. Student
R/o. Ranpise Nagar, Akola.
2. Prathamesh Kishor More,
Aged 22 years, Occ. Student,
R/o. Ranpise Nagar, Akola.

..... **PETITIONERS**

...VERSUS...

Scheduled Tribes Caste Certificate Scrutiny Committee,
through its Member Secretary,
Chaprasipura, Amravati.

..... **RESPONDENT**

S/Shri R.S. Parsodkar, with Shri P. R. Parsodkar, Advocates for petitioners.
Ms S. S. Jachak, Assistant Government Pleader for respondent.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.
DATE :- 18th JULY, 2023

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The challenge raised in the present writ petition is to the order dated 28.12.2022 passed by the Scrutiny Committee invalidating the petitioners claim of belonging to 'Thakur' Scheduled Tribe. The aforesaid claim of the petitioners has been disallowed principally on the ground that though the documents relied upon by the petitioners have the entry 'Thakur',

the petitioners have failed to indicate affinity with members of the Scheduled Tribe. Similarly the validity certificate issued to the petitioners uncle - Govind Sharad More has been discarded on the ground that the same has been issued by the Scrutiny Committee at Aurangabad.

3. We have heard the learned counsel for the parties and we have perused the documents on record including the record maintained by the Scrutiny Committee. Undisputedly, various pre-independence entries of the year 1919, 1936, 1942 and 1947 of the petitioners fore-fathers have the entry 'Thakur'. There are no contrary entries of any caste/tribe mentioned therein. In the wake of the entry 'Thakur', it would not be permissible for the Scrutiny Committee to assume that these entries indicate that the petitioners belong to upper caste 'Thakur'. The issue in this regard now stands settled pursuant to various decisions of the Honourable Supreme Court that the entry has to be read as it is and there cannot be any addition or assumption in that regard.

4. Further the larger bench of the Honourable Supreme Court in *Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra [2023(2) Mh.L.J.785]* has clearly held that the over all material on record has to be considered and the report of the Vigilance Cell cannot be treated to be the sole basis for disregarding such claim. The said report is not to be treated as litmus test. When the report of the Vigilance Cell is

perused, it has been observed that the petitioners could not display affinity with the Scheduled Tribe and were not aware about the traits and customs followed. With the passage of time it cannot be expected that all the earlier traits and customs would be continued to be followed. As per the information supplied by the petitioners that on death of a person belonging to the family, the body used to be buried. However this practice had been discontinued and the body was now cremated. As held by the Larger Bench in its decision *Adiwasi Thakur Jamat Swarakshan Samiti* (supra), it would be necessary to consider the overall material on record while adjudging the claim with regard to social status.

5. It is material to note that the petitioners uncle - Govind Sharad More has been issued validity certificate on 21.04.2011 by the Scrutiny Committee at Aurangabad. This Court in Writ Petition No. 2686 of 2022 (*Ku.Shravani d/o Ganesh Wankhede vs. State of Maharashtra and ors.*) decided on 16.09.2022 has held that there is no restriction of a validity certificate only to the area over which the Scrutiny Committee issuing the same exercises jurisdiction. Since the aforesaid certificate continues to operate, there is no reason to discard the same. It would be entitled to necessary weightage in that regard.

6. Thus considering over all material on record including the consistent entries of pre-independence period, which carry great probative

value coupled with the validity certificate of a blood relative, we find that the Scrutiny Committee erred in refusing to grant validity certificate to the petitioners.

7. For aforesaid reasons, the order passed by the Scrutiny Committee on 28.12.2022 is set aside. It is declared that the petitioners have proved that they belonged to 'Thakur' Scheduled Tribe. The Scrutiny Committee shall within a period of four weeks of receiving copy of the judgment, issue validity certificates to the petitioners. Till the validity certificates are received, the petitioners can rely upon the copy of this judgment to indicate that their claim of belonging to 'Thakur' Scheduled Tribe has been accepted.

Rule is made absolute in aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..