

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

WRIT PETITION NO. 4718 of 2021

Rajendra Namdev Pawar and another.

vs.

State of Maharashtra through its Secretary, Tribal Development Department, Mantralaya,
Mumbai and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Gopal G. Mishra, Advocate for petitioners.

Shri S.M.Ghodeswar, Assistant Government Pleader for respondents.

CORAM :- A.S.CHANDURKAR AND MRS.VRUSHALI V. JOSHI, JJ.

DATE :- JANUARY 19, 2023.

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

Challenge raised in this writ petition is to the order passed by the Scrutiny Committee on 12.08.2021 invalidating tribe claim of the petitioners of belonging to 'Thakur' Scheduled Tribe. It is submitted by the learned counsel for the petitioners that the nephews of the present petitioners had approached this Court in Writ Petition No. 6670 of 2022 (*Anurag Gajendra Pawar and ors. The Scheduled Tribe Caste Certificate Scrutiny Committee and another*). By the judgment dated 01.12.2022 it was declared that they had proved that they belong to 'Thakur' Scheduled Tribe and direction to issue validity certificates subject to final decision of the Hon'ble Supreme Court in Special Leave to Appeal (C)No.24894 of 2009 was given. It is submitted that similar relief be granted to the petitioners since the name of the nephews figured in the family tree was considered by the Vigilance Cell.

On 10th January, 2023 the learned Assistant Government Pleader was granted time to verify the aforesaid aspect.

Today, after verifying the relationship of the petitioners with the petitioners in Writ Petition No.6670 of 2022 and the fact that similar documents are being relied upon, it is submitted that the aspect that the conditional validity certificates granted to those petitioners would be a relevant factor.

After perusing the judgment in Writ Petition No.6670 of 2022 alongwith family tree examined by the Vigilance Cell in the present proceedings, we are satisfied that the petitioners would be entitled to the benefit of the earlier adjudication in the case of their nephews. Accordingly for the reasons recorded in the judgment in Writ Petition No.6670 of 2022, the following order is passed:

- (i) The order dated 12.08.2021 passed by the respondent no.2-Scrutiny Committee is set aside.
- (ii) It is declared that the petitioners have proved that they belong to 'Thakur' Scheduled Tribe. The respondent no.2-Scrutiny Committee shall within a period of ten days from receipt of copy of this order issue validity certificates to the petitioners accordingly.
- (iii) It is however made clear that issuance of validity certificates is subject to the final decision of the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 24894 of 2009 that has been referred to the larger Bench.
- (iv) Till the petitioners receive validity certificates, they are free to refer to the copy of this order to indicate that they have been held entitled to receive validity certificates.

Rule is made absolute in aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)