



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

MISC. CIVIL APPLICATION (FOR REVIEW) NO.1096/2023
IN
WRIT PETITION NO.12/2022

<u>APPLICANT</u>	Vidarbha Adiwasi Mana Samaj Kriti Samiti, Nagpur through its Vice-President Shri Baliram S/o Natthuji Gadmade aged about 74 Years, R/o Plot No.29, Lokhande Nagar, Behind Gaytri Mandir, Post. Laxmi Nagpur Nagpur, Dist. Nagpur 4400224, M-7767048310.
<u>...VERSUS...</u>	
<u>NON-APPLICANTS (RESPONDENTS)</u>	1. Shri Maroti Vyankati Gaikwad Aged about 62 years, Occu. Retired. 2. Shri Ganesh S/o Maroti Gaikwad Aged about 38 years, Occu. Service. 3. Ku. Archana D/o Maroti Gaikwad Aged about 33 years, Occ. Service. All R/o Dongarkherda Tah. Kalamb, Dist. Yavatmal. 4. Deputy Director & Member Secretary The Scheduled Tribe Certificate Scrutiny Committee, Amravati Opposite of office of State Information Commission, Chaprashipura, Amravati. 5. President/Secretary, Singhgad Technical Education Society, Erandwane, Smt. Khilare Marg, Pune 411004. 6. Principal, Singhgad Institute of Technology Kusgaon (BK) Tah. Lonawala, Dist. Pune. 7. Registrar, Savitribai Fule University, Pune Ganeshkhind Road, Pune 411007. 8. Zilla Parishad, Yavatmal through its Chief Executive Officer, Yavatmal, Arni, Yavatmal 445001. 9. Education Officer (Primary) Zilla Prishad, Yavatmal, Arni Road, Yavatmal.

Mr. S.P. Khare & Mr. N.D. Jambhule, Advocates for applicant Mr. S.M. Ukey, Addl. G.P. for respondent no.4
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CORAM :	VINAY JOSHI,
	AVINASH G. GHAROTE
	AND
	ANIL S. KILOR, JJ.
<u>DATE</u>	10/11/2023

ORAL ORDER (PER : AVINASH G. GHAROTE, J.)

1. The review application has been filed by the present applicant seeking a review of the opinion rendered by the Full Bench, dated 15/09/2023, in Writ Petition No.12/2022. 5

2. Mr. Khare, learned Counsel for the review applicant submits that the opinion rendered by the Full Bench, needs review on the ground that the judgment of the Hon'ble Supreme Court in *Palghat Jilla Thandan Samudhaya Samrakshna Samithi and another Vs. State of Kerala and another (1994) 1 SCC 359*, has not been considered in its proper perspective in as much as *Palghat Jilla Thandan Samudhaya Samrakshna Samithi* (supra) holds that the Thandan Community in the entire State was entitled to be treated as a Scheduled Tribe, and thus the opinion 10 15

which does not consider this position, needs reconsideration. That is the only ground canvassed.

3. We have heard learned Counsel for the review applicant and are of the opinion that the contention has no merit. 5
This is so for the reason, that the ratio in *Palghat Jilla Thandan Samudhaya Samrakshna Samithi* (supra) is not what has been canvassed by the learned Counsel, as the challenge which was considered was as to the validity of the decision of the State of Kerala not to treat members of the Thandan Community 10
belonging to the erstwhile Malabar District, including the present Palghat District, of the State of Kerala as members of the Scheduled Castes. In fact *Palghat Jilla Thandan Samudhaya Samrakshna Samithi* (supra) in para 18 holds that the Scheduled Castes Order has to be applied as it stands and no enquiry can be 15
held or evidence led in to determine whether or not some particular community falls within it or outside it. No action to modify the plain effect of the Scheduled Castes Order, except as contemplated by Article 341 of the Constitution, is valid. Apart from this *Palghat Jilla Thandan Samudhaya Samrakshna Samithi* 20
(supra) has also been considered by the learned Constitution Bench in *State of Maharashtra Vs. Milind and others (2001) 1*

SCC 4 and after considering it, it has been held that the entries in the Presidential Order has to be read as it is.

4. We, therefore, do not feel that any ground is made out for review of the opinion. The review application is, therefore, 5 dismissed. Considering the circumstances, there shall be no order as to costs.

(ANIL S. KILOR, J.) (AVINASH G. GHAROTE, J.) (VINAY JOSHI, J.) 10

Wadkar