



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

909 WRIT PETITION NO. 1507 OF 2024

KALPANA FAKIRA PAWAR,
Age : 55 years, Occu. : Service (Assistant Teacher),
R/o At.Post. Mali Ghogargaon,
Tq.Vaijapur, Dist. Chhatrapati Sambhajnagar,
At present : Zilla Parishad Primary School,
Kukana, Tq.Newasa, Dist. Ahmednagar.

...PETITIONER

VERSUS

1. THE STATE OF MAHARASHTRA.
Through its Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
2. Deputy Director (Research) and
Member Secretary, Scheduled Tribe
Certificate Verification Committee,
Chhatrapati Sambhajnagar,
Near Saint Lawrence School,
CIDCO, Chhatrapati Sambhajnagar,
Dist. Chhatrapati Sambhajnagar.
3. The Chief Executive Officer,
Zilla Parishad, Ahmednagar.
Dist. Ahmednagar.
4. The Education Officer (Primary),
Zilla Parishad, Ahmednagar.
Dist. Ahmednagar.

...RESPONDENTS

...
Shri C.R. Thorat, Advocate for the Petitioner.
Shri R.S. Wani, AGP for Respondent Nos.1 and 2/State.
Ms.Kavita Bhale, Advocate for Respondent Nos.3 and 4.

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**WITH
WRIT PETITION NO. 1511 OF 2024**

SHOBHA FAKIRA PAWAR,
Age: 58 years, Occu.: Service (Assistant Teacher),
R/o. At. Post. Mali Ghogargaon, Tq. Vaijapur,
Dist. Chhatrapati Sambhajanagar.
At Present: New Vidya Nagar, Gut. No. 91,
Plot No. 24/B, Beed Bypass,
Satara Parisar, Chhatrapati Sambhajanagar,
Dist. Chhatrapati Sambhajanagar.

...PETITIONER

VERSUS

1. THE STATE OF MAHARASHTRA.
Through its Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
2. The Commissioner, Municipal Corporation,
Town Hall, Chhatrapati Sambhajanagar.
3. Deputy Director (Research) and
Member Secretary, Scheduled Tribe
Certificate Verification Committee,
Chhatrapati Sambhajanagar, Near Saint
Lawrence School, CIDCO,
Chhatrapati Sambhajanagar
Dist. Chhatrapati Sambhajanagar.
4. The Education Officer,
Municipal Corporation, Town Hall,
Chhatrapati Sambhajanagar.
Dist. Chhatrapati Sambhajanagar.

...RESPONDENTS

...

**WITH
CIVIL APPLICATION NO. 3626 OF 2024
IN WP/1511/2024**

SHOBHA FAKIRA PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND ORS

...
Shri C.R. Thorat, Advocate for the Petitioner.
Shri R.S. Wani, AGP for Respondent Nos.1 and 3/State.
Shri Suhas P. Urgunde, Advocate for Respondent Nos.2 and 4.
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**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 20th August, 2024

ORAL JUDGMENT (*Per Ravindra V. Ghuge, J.*) :-

1. Rule. Rule is made returnable forthwith and heard finally by the consent of the parties.

2. Both the Petitioners claim to be belonging to 'Thakar', Scheduled Tribe category. Their claim has been rejected by the Scrutiny Committee, by its common judgment dated 31.01.2024.

3. Heard the learned Advocates for the respective sides and perused the petition paper books with their assistance.

4. We have perused the genealogy, which can be traced up to Punjaram Thakar. His son is shown as Banderao Punjaram Thakar. Banderao had two sons, namely, Fakira and Dada. Both the Petitioners before us, namely, Kalpana and Shobha, are siblings and they are biological daughters of Fakira. Their biological brother Dagdu, is the father of Anurag Dagdu Thakar.

5. The original record is perused by the learned AGP, who submits that the earliest person in the genealogy is known as Punjaram Thakar. These Petitioners, their father, uncles and aunts are using the surname 'Pawar'.

6. Anurag Dagdu Pawar was before the co-ordinate Bench of this Court in Writ Petition No.8907/2019 wherein, one or two entries indicated his caste as 'Thakur Maratha'. The co-ordinate Bench considered the grievance of Anurag, whose claim was invalidated by the Scrutiny Committee and by the judgment dated 02.08.2019, delivered in Writ Petition No.8907/2019, Anurag was granted the validity certificate under the orders of this Court. However, a condition was imposed that if any of the

other validity holders, on whose validity Anurag has placed reliance, faced re-reopened cases and the validity certificate is cancelled, Anurag will not be entitled for any equity and he would suffer the same consequences.

7. In ***Shweta Balaji Isankar vs. The State of Maharashtra and others***, Writ Petition No.5611/2018, decided on 27.07.2018 at the Principal Seat, this Court has concluded in paragraphs 2, 3, 4 and 8 as under :-

- “2. On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of validity should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.
3. On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record. We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no

proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that appropriate orders and directions be issued by this Court.

4. *We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.”*

“8. *This order does not prevent the Committee from proceeding against Govind in accordance with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well.”*

8. In view of the above, if the present Petitioners are to

be granted conditional validity certificates, they would be placed at par with Anurag and if Anurag or Mangal suffer reopening of their cases and an adverse order cancelling their validity certificates is passed, the present Petitioners would also suffer the same consequences.

9. In view of the above, **both these Writ Petitions are partly allowed**. The impugned judgment dated 31.01.2024, shall stand quashed and set aside. The present Petitioners would be granted the validity certificates of 'Thakar', Scheduled Tribe, within 30 (thirty) days from today. As concluded above, this would be a conditional order and if the Petitioners face reopening of their cases, they would suffer the same fate as may be suffered by Anurag or Mangal, if such claims are invalidated.

10. Rule is made partly absolute in the above terms.

11. The pending **Civil Application does not survive and stands disposed off**.