



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

WRIT PETITION NO. 3467 OF 2024

1. Harsh Prashant Thakur
2. Prashant Subhash Thakur .. Petitioners

Versus

The State of Maharashtra and another .. Respondents

Shri Mukulanand R. Wagh, Advocate for the Petitioners.
Shri P. S. Patil, Addl.G.P. for the Respondent Nos. 1 and 2.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 12 SEPTEMBER 2024.**

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides finally as the petitioner No. 2 is in need of validity certificate for prosecuting further studies.

2. The petitioners are challenging judgment and order dated 27.03.2023 passed by the respondent No. 2/Scrutiny Committee confiscating and invalidating their tribe certificates of 'Thakur' schedule tribe. They are relying on validity certificates of Subhash Namdev, Aba Namdev and Vikrant Subhash. Besides that they are relying on pre-independence record of blood relatives which is having greater probative value.

3. The learned counsel for the petitioner Mr. Wagh submits that in view of the old record and the validities issued in the

family, the Committee should not have rejected the tribe claims. He would further submit that the old record which was placed before the Committee was not taken into account and no opportunity of hearing was extended to the petitioners.

4. Per contra, learned Additional Government Pleader would submit that during vigilance old incompatible school record was discovered and the petitioners were unable to explain the same. It is further submitted that the consistent record indicating tribe as Bhat since 1888 was found out during the vigilance enquiry. It is further submitted that few of the blood relatives of the petitioners were found to be Hindu Bhat and Brahma Bhat. He would submit that the Committee has taken plausible and reasonable view giving due opportunity of hearing and no interference is called for.

5. We have considered rival submissions of the parties canvassed across the bar. The petitioner No. 2 is father of the petitioner No. 1. Validity holders Subhash Namdev and Aba Namdev are father and real uncle of the petitioner No. 2. Vikrant Subhash who is also validity holder is real brother of the petitioner No. 2. It transpires from record that the tribe claims of the petitioners were rejected on earlier occasion and they had filed Writ Petition No. 768 of 2021. The order of invalidation was quashed and matter was remanded to the Committee to take into account the old record along with translation.

6. Accordingly, old record was placed before the Committee

along with translated copies and certification of the curator of Rajwade Sanshodhan Mandal, Dhule. On the same line petitioners filed reply to the vigilance report. The following pre-independence entries were pressed into service by the petitioners :

Sr. No.	Name of the Relative	Relationship with the petitioner No. 2	Caste	Date
1	Bhagwan Ramsing	Great Great grandfather	Thakur	01.09.1877
2	Bhatu Bhapu	Cousin great great grandfather	Thakur	1908
3	Arjun Zugaru Thakur	Cousin great grandfather	Thakur	02.08.1909
4	Devchand Bhagwan	Cousin great grandfather	Thakur	14.11.1912
5	Kautik Chimna	Cousin great grandfather	Thakur	03.03.1921
6	Bhimsing Bhagwan	Cousin great grandfather	Thakur	02.06.1924
7	Bapu Ramsing	Cousin great grandfather	Thakur	12.03.1943

7. It is the contention of the petitioners that the above persons are their paternal side relatives. Jagannath Gorakh Thakur is one of the validity holders in the family, whose vigilance report was considered in the present matter. The incompatible school record was considered for negating the petitioners claims. The genealogy, in his matter which is at page No. 185 was before the Committee. It indicates that the above

referred persons are paternal side blood relatives of the petitioners. As the incompatible school record of same person was considered by the Committee, we have no reason to suspect their relationship with the petitioners.

8. The learned Addl. G. P. vehemently indicated incompatible school record, which was considered by the Committee. Such a pre-independence record disclosed caste as Bhat, Brahma Bhat and Thakur also. The record reveals that there are inconsistent entries of the same persons who are included in the above referred table. Thus there is mixed record of pre-independence entries.

9. There are validities issued in the family of the petitioners. Out of them Subhash Namdev, Aba Namdev and Vikrant Subhash are close blood relatives. Unless those certificates are revoked, petitioners cannot be deprived of same social status. The Committee discarded validities only on the ground that Subhash Namdev Thakur was issued with the validity certificate on the basis of prevalent position of law. It is further recorded that the incompatible school record was suppressed from the Committee. We are bound by the law laid down by the Supreme Court in the matter of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others reported in *2023 SCC Online SC 326*, prima facie, we are of the considered view that the validity certificates pressed into service are reliable.

10. The Committee has proposed reverification of earlier

validities issued in the family of the petitioners. The incompatible school record discovered by the vigilance cell of pre-independence period, having greater probative value cannot be a ground to reject the tribe claim of the petitioners at this juncture without resorting to reverification of earlier validities. The petitioners cannot be denied same social status. The petitioners have also pre-independence record to corroborate their claim as stated in above paragraph. Then in such a situation, it would be upto the committee to undertake exercise of reverification. Till then petitioners are entitled to receive validity certificates.

11. The petitioners are ready to run the risk of facing consequences in view of the judgment in the matter of **Shweta Balaji Isankar Vs. The State of Maharashtra and others judgment dated 27 July 2018 in W. P. No. 5611 of 2018**. For the reasons stated above, the impugned judgment and order is unsustainable. We, therefore, pass following order.

ORDER

- i. The writ petition is allowed partly.
- ii. The impugned judgment and order dated 27.03.2023 passed by respondent no. 2 – Scrutiny Committee is quashed and set aside.
- iii. Since the petitioner no. 1 is required to submit the certificate of validity to secure admission within stipulated period and petitioner no. 2 is also in need of certificate of validity,

the respondent no. 2 – Scrutiny Committee shall immediately issue tribe validity certificates to the petitioners as belonging to ‘Thakur’ scheduled tribe in the prescribed proforma.

iv. The validities of the petitioners would be subject to and co-terminus with the validities of Somnath Gorakh Thakur and Sonal Somnath Thakur. v. The petitioners shall not be entitled to claim equities.

vi. Learned AGP and the Law Officer of the Committee who are present, shall ensure that the decision is immediately communicated to the Committee.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb / Sept. 24