



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

**WRIT PETITION NO.4299 OF 2009
WITH
CIVIL APPLICATION NO.9022 OF 2024**

Chandrakant Gokul Thakur,
Age : 46 years, Occu : At present Nil,
R/o Gokul Lila, Gat No.177,
Plot No.55/56, Sawkheda Shivar,
Wagh Nagar, Jalgaon, Tq. & Dist. Jalgaon.

...PETITIONER

VERSUS

1. The State of Maharashtra.
Department of Tribal Development,
Mantralaya, Mumbai-32.
Through its Secretary.
2. The Scheduled Tribe Certificates
Scrutiny Committee, Nandurbar Division,
Nandurbar.
3. The Sub Divisional Officer,
Jalgaon Division, Jalgaon,
Dist. Jalgaon.
4. The Chief Engineer,
Maharashtra State Electricity
Distribution Company Ltd.,
Nashik Division, Nashik.
5. The Executive Engineer (O & M),
Maharashtra State Electricity
Distribution Company Ltd.,
O & M Division Office,
Gavat Bazar, Ravivar Peth,
Sawda, Dist. Jalgaon.

...RESPONDENTS

...
Shri Mahesh S. Deshmukh, Advocate i/by Shri Umesh B. Gite,
Advocate for the petitioner.
Shri Ruchir S. Wani, AGP for respondent Nos.1 to 3/State.
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**CORAM : MANGESH S. PATIL
&
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 18th December, 2024

JUDGMENT (Per Prafulla S. Khubalkar, J):-

(a) Writ Petition No.4299/2009

Heard finally.

2. By the instant petition, which is admitted on 18.03.2010, the petitioner assails the order dated 08.08.2008 passed by respondent No.2 Scrutiny Committee thereby, invalidating the petitioner's claim for 'Thakur', Scheduled Tribe.

3. The petitioner has challenged the impugned order raising several grounds including that the Scrutiny Committee has failed to consider the purport of validity certificate granted in favour of real brother of the petitioner and the orders passed by this Court in the matters of his close blood relatives. To buttress

his submissions, the learned counsel for the petitioner has invited our attention to the certificate of validity dated 28.07.1999 in favour of Manojkumar Gokul Wagh, who is real brother of the petitioner and the order dated 27.06.2003 in Writ Petition No.2741/1990 in the matter of Narendra Dhudku Thakur. By pointing out the order in this writ petition, it is submitted that this Court has scrutinized the same documentary evidence, which was placed before the Scrutiny Committee in the matter of the petitioner. Attention of the Court is also invited to the genealogy which is filed by the petitioner on affidavit before the Scrutiny Committee. The genealogy states the relationship of the petitioner with Narendra Dhudku Thakur. The learned counsel for the petitioner has, thus, submitted that in view of the order in Writ Petition No.2741/1990, which has attained finality, the impugned order needs to be set aside.

4. The learned counsel for the petitioner has further submitted that the genealogy and relationship of the petitioner with Narendra is not disputed. It is pertinent to note that the certificate of validity dated 28.07.1999 in favour of real brother of the petitioner Manojkumar, refers to the order passed by this

Court in Writ Petition No.2032/1994 and the validity certificates in favour of Vaishali Pitambar Thakur, Deepali Pitambar Thakur and Rupali Pitambar Thakur granted pursuant to the order of this Court in Writ Petition No.2032/1994. In view of these validity certificates and the judgment and order in Narendra's Writ Petition No.2741/1990, the instant petition needs to be decided accordingly.

5. The learned AGP has supported the impugned order by referring to the observations of the Scrutiny Committee with respect to each of the documents. He has also argued that the claim is rightly invalidated on account of failure in affinity test and in view of issue of area restriction.

6. We have heard the rival submissions and perused the record. The validity certificate in favour of real brother of the petitioner Manojkumar and the order in the matter of his cousin Narendra in Writ Petition No.2741/1990, are not disputed. The observations of the Scrutiny Committee with respect to affinity test and area restriction need to be brushed aside in the light of the authoritative pronouncement of the Honourable Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat***

Swarakshan Samiti, AIR 2023 SC 1657 : 2023 SCC Online SC 326 and Jaywant Dilip Pawar vs. State of Maharashtra and others, 2018 (5) All MR 975, which has decided these issues.

7. In view of the entire conspectus of the matter, we are of the considered view that the instant petition needs to be allowed. Hence, the following order:-

(a) The Writ Petition is partly allowed.

(b) The impugned order dated 08.08.2008 passed by respondent No.2 Scrutiny Committee is hereby quashed and set aside.

(c) Respondent No.2 Scrutiny Committee is directed to immediately issue a validity certificate of 'Thakur', Scheduled Tribe to the petitioner in the prescribed format.

(d) No order as to costs.

8. Rule is made absolute in the above terms.

(b) Civil Application No.9022/2024

9. By this application, the petitioner/ applicant has prayed for direction to respondent No.4 to implement its transfer

order dated 26.07.2024 transferring the petitioner from Raver Urban Section, Jalgaon Zone to Nashik Zone.

10. The controversy involved before this Court in Writ Petition No.4299/2009 is with respect to the order passed by the Scrutiny Committee invalidating the petitioner's tribe claim, whereas, the petitioner's prayer vide the instant Civil Application is an independent subject matter, which the petitioner can pursue independently. The Civil Application is, therefore, disposed of.

kps

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)