IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Writ Petition No. 9324 Of 2011
WITH
Civil Application No.2861 Of 2016
AND
Civil Application No.7123 Of 2013

Prashant s/o Shirish Thakur
Age : 25 years, Occ. Unemployed,
R/o : Kurhe, Tq. Bhusawal, Dist. Jalgaon,
Presently residing at 14, "Sai Chaya",
Row House Wadje
Dist. Dhule. ...Petitioner

Versus

1. The State of Maharashtra,
Trough its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.

2. Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar Division,
Nandurbar, Through its Member Secretary
and Dy. Director (Research). ...Respondents

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Mr. K. T. Shirurkar, Advocate for the Petitioner.

Mr. A.R Kale, Addl.GP for Respondent/State.

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CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ..

DATE : 21 AUGUST 2024

FINAL ORDER [Per: Shailesh P. Brahme, J.] :

. Heard both the sides finally.

2. The petitioner is challenging the judgment and order dated 23.08.2011 passed by the Scrutiny Committee, confiscating and invalidating his tribe certificate of 'Thakur' Scheduled Tribe. He seeks to rely on the validity certificates of Pradip, Dilip, Jayshree and Shailesh. Besides that he would also rely on pre-constitutional record of Laxman Sahadu Bavaskar – 1939; Madhukar Thakur – 1946; Dayaram Thakur – 1934' Prabhakar Thakur – 1951 and Vasant Thakur – 1959.

3. Learned AGP supports impugned judgment and order. He would submit that the validity certificates were obtained by suppressing material facts. The Committee has rightly rejected the caste claim on the ground of affinity test and place of residence.

4. We have considered submissions of the parties. It reveals from record that there is no dispute about the relationship of the petitioner with the validity holders. Jayshree was issued with validity certificate by High Court in Writ Petition No.2206/1994 vide order dated 20.07.1994 without incorporating any conditions. In that matter, reliance was placed on validity certificate of her brother – Shailesh. This being judgment prior to decision by the Supreme Court in the matter of **Kumari Madhuri Patil Vs. Addl. Commissioner**, 1994 SCC (6) 241 has binding effect. There is no reason to discard it. We prefer to follow it.

5. The record reveals that pre-constitutional record of

Laxman Sahadu Bavaskar – 1939; Madhukar Thakur – 1946; Dayaram Thakur – 1934; Prabhakar Thakur – 1951 and Vasant Thakur – 1959, supports tribe claim of the petitioner. In view of law laid down in the matter of **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and Others**, 2010(6) Mh.L.J. 401, the record has greater probative value. We find that impugned judgment and order is unsustainable. We, therefore, pass following order :

ORDER

a. The writ petition is allowed partly.

b. The judgment and order dated 23.08.2011 passed by the Scrutiny Committee is quashed and set aside.

c. The Scrutiny Committee shall immediately issue tribe validity certificate of 'Thakur' scheduled tribe to the petitioner in the prescribed format without adding anything.

d. The civil applications are disposed of.

SHAILESH P. BRAHME
JUDGE

MANGESH S. PATIL
JUDGE

Najeeb..