



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

WRIT PETITION NO. 11948 OF 2019

SNEHAL RAVINDRA THAKUR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Mr. A.S. Golegaonkar a/w

Mr. M.A. Golegaonkar

AGP for Respondents/State : Mr. S.S. Dande

Advocate for Respondent No.5 : Mr. Nitin K. Chaudhari

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**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 10th DECEMBER 2024

JUDGMENT :

. Rule. Rule is made returnable forthwith. Heard both the sides finally considering exigency in the matter.

2. The petitioner is challenging common judgment and order dated 25.06.2019 passed by the respondent/Scrutiny Committee, invalidating her tribe certificate.

3. Learned Counsel for the petitioner has tendered on record the compilation of the list of validity holders, certificates of validity and orders passed by the High Court and by the Scrutiny Committee.

4. The petitioner is relying on validity certificates issued to her father, uncle and various paternal side relatives. Besides that

petitioner is relying upon pre-constitutional record of her grand father – Ramdas of 1945.

5. Learned Counsel for the petitioner Mr. A.S. Golegaonkar would submit that after following due procedure of law, the validity certificates were issued to blood relatives of the petitioner. In view of judgment of Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**, 2023 SCC Online SC 326, those validities would enure to the benefit of the petitioner. He would further submit that Kunal Hemant Thakur and Neha Vilas Thakur were issued with validity certificates by the intervention of this Court. He would further submit that in case of the contrary entry of Babu of 1916/1922, there was already vigilance and consideration by High Court in the matter of Kunal Hemant Thakur and in spite of that Kunal was issued with validity certificate.

6. Learned Counsel further submits that the school record of Dhudkya, Tulshiram and Babu was pitted against the petitioner. He would advert our attention to the reply to vigilance report and would contend that explanation has been tendered by the petitioner for the entry – Dhudkiya. He was not the relative of the petitioner. To support this contention our attention is invited to the death certificate of Dhudku Malhari Thakur. As selfsame record has already been considered, not only by the High Court, but the Committee on various occasions, it would not be open for the Committee to draw any adverse inference to deny the social status. It is further submitted

that the reasons of area restriction and test of affinity are not sustainable in view of the judgment passed by the **Palaghat Jila Thandan Samuday Sanrakshan Samiti and Anr. Vs. State of Kerala and Anr.**; (1994) 1 SCC 359 and the judgment of Supreme Court in the matter of Adiwasi Thakur Jamat Swarakshan Samiti (supra).

7. Per contra, learned AGP Mr. Dande places on record the original papers of the petitioner. He supports impugned judgment and order. It is contended that there is pre-constitutional incompatible school record of Dhudkiya of 1910, Tulshiram of 1916 and Babu of 1916. It is having greater probative value. The Committee has rightly decided the tribe claim. He would further point out that the blood relatives who were issued with validity certificates have procured the validities from different committees. Hemant and Ravindra were issued the validity certificates from Nashik Committee. Whereas Kunal, Vidya and Neha were issued validity certificates by Thane Committee which would amount to suppression of facts and this would be a fraud.

8. Learned AGP would vehemently submit that there is suppression of material facts and the incompatible school record while procuring the validity certificates in case of earlier validity holders which would be a fraud. It is therefore contended that no interference is called for with the impugned judgment and order.

9. We have considered rival submissions of the parties. We have

also gone through the original papers.

10. Learned AGP has invited our attention to the genealogy produced by the petitioner's father before the Committee which would indicate that petitioner is lineal descendant of one Dhudku Mallhari Thakur. The incompatible school record pertains to Dhudkya Mallhari. The person appearing in the genealogy is the Dhudku Mallhari. Even if Dhudku and Dhudkiya are treated to be the same person, there is other clinching material on record and earlier validities issued in the family of the petitioner. His school entry of 1910 is not decisive.

11. There is no dispute on the relationship of the petitioner with the earlier validity holders. The following chart demonstrates that validity certificates have been issued to the close blood relatives of the petitioner :

Sr.No.	Validity Given By	Validity Name	Holder	Relationship	Date
1.	Committee	Hemant Thakur	Ramdas	Real Uncle	06.06.2000
	Committee	Ravindra Thakur	Ramdas	Father	25.02.2002
2.	Committee	Vilas Ramdas Thakur		Real Uncle	24.11.2002
3.	Hon'ble H.C WP No. 10910/2011	Vidya Thakur	Hemant	Real Paternal Cousin	CVC issued on 30.04.2015
4.	Hon'ble H.C WP No. 6808/2018	Kunal Thakur	Hemant	Real Paternal Cousin	Decision dated 26.06.2018
5.	Hon'ble H.C. WP No.7411/2018	Neha Vilas Thakur		Real Paternal Uncle	Decision dated 18.07.2018
6.	Committee	Dinesh Thakur	Prakash	First Degree Cousin	

7.	Committee	Dhiraj Thakur	Prakash	First Degree Cousin	
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12. It's matter of record that Kunal Hemant Thakur and Neha Vilas Thakur were issued the validity certificates by the intervention of the High Court. Those orders are placed on record. In the matter of Kunal, the reasoned order was passed by the High Court considering the selfsame record. Particularly the school record of Babu disclosing entry of 1916 as a date of document and the date of admission as 1922 has been considered. Other evidence was also taken into account and Kunal was issued with validity certificate. Relying on this validity, Neha was also issued with validity certificate. These two validities are intact. Unless these validity certificates are recalled, the petitioner cannot be deprived of same social status.

13. We inquired with learned AGP, whether any action is taken for recalling the earlier validities issued in the family. He fairly submitted that no such steps have been taken till date. If this is the scenario when earlier validities are still intact, then it would be discriminatory to deny the same social status to the petitioner.

14. The finding recorded by the Scrutiny Committee regarding area restriction and affinity are unsustainable. In view of judgment in the matter of Palaghat Jila Thandan Samuday Sanrakshan Samiti (supra), as the area restriction was removed, the place of residence has no significance. The Supreme Court in the case of Maharashtra

Adiwasi Thakur Jamat Swarakshan Samiti (supra), has ruled that affinity test is not a litmus test. When other clinching evidence is on record, the affinity test is inconsequential. On both counts, the impugned judgment is unsustainable.

15. It is a matter of record that there were pre-constituinal record in the form of Ramdas's entry and it has greater probative value and therefore relying on this entry, the earlier validity holders have been issued with validity certificates. In Dhudku's and Tulshiram's school record, the caste column is torn. The petitioner has already tendered explanation for Dhudku's incompatible school record. It was not been taken into account by the Committee. These two entries cannot treated to be detrimental to tribe claim.

16. We are of the considered view that, the petitioner is entitled to receive validity on the ground of parity. The blood relatives of the petitioner were issued with validity certificates after following due procedure of law and the Committee has not taken any steps to conduct any reverification. In that view of the matter, we find that the impugned judgment and order to the extent of petitioner, is unsustainable. We, therefore, pass following order :

ORDER

- a. The impugned judgment and order dated 25.06.2019 to the extent of petitioner, is quashed and set aside.
- b. The respondent/Scrutiny Committee shall immediately issue validity certificate to the petitioner.

- c. It would be open for the Scrutiny Committee to undertake the reverification if so advised to them, in case of earlier validities granted in the family.
- d. Rule is made absolute in the above terms.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

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