



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11835 OF 2024

1] Prashant Sunil Thakur
2] Swapnali Sunil Thakur
3] Kumar Prakash Thakur

.. Petitioners

Versus

The State of Maharashtra and others

.. Respondents

...
Advocate for petitioners : Mr. A.S. Golegaonkar h/f.
Mr. Madhur A. Golegaonkar
AGP for the respondent – State : Mr. V.M. Kagne
...

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

DATE : 24 OCTOBER 2024

ORDER (MANGESH S. PATIL, J.) :

By common judgment and order under challenge, respondent no. 2 – committee has refused to validate petitioners' 'Thakur' scheduled tribe certificates.

2. In the light of urgency, we have heard the matter finally at the stage of admission.

3. Learned advocate for the petitioners would submit that without there being any contrary entry pointed out by the committee, it has readily discarded favourable entries without sufficient and cogent reasons. The conclusion drawn by the committee is based on

surmises and conjectures. It has illegally applied affinity test and even ignored the fact that area restriction was removed by the Amendment Act of 1976. The committee has also grossly erred in treating 'Hindu' entries in the school record as contrary to the petitioners' claims of being Thakur. 'Hindu' being a religion, the committee could not have treated it as a contrary entry.

4. Learned advocate would further submit that even if there are certain 'Thakar' entries in the school and other record of the petitioners' relatives, 'Thakar' and 'Thakur' both the entries fall at serial no. 44 in the Presidential Order and cannot be treated as a contrary entry. He would thus submit that even without there being a single entry contrary to the petitioners' claims, the decision of the committee is perverse, arbitrary and capricious.

5. Learned advocate would further submit that the petitioners' near blood relatives – Sunil Janardhan Thakur and Bhagyashri Sunil Thakur possess certificates of validity which were issued by following due process of law and till the time those are not recalled and cancelled, the petitioners are entitled to derive the benefit of those validities and she is even ready to run the risk of facing the consequences contemplated in ***Shweta Balaji Isankar Vs. State of Maharashtra and others*** (writ petition no. 6320 of 2017).

6. Learned AGP would strongly oppose the petition. He would submit that the committee has assigned cogent and convincing reasons and this Court, in exercise of powers under Article 226 of the Constitution of India, cannot interfere.

7. We have heard both the sides and perused the papers.

8. Admittedly, petitioners' blood relatives possess certificates of validity issued by following due process of law. Even if the committee now alleges about they having practised fraud. The only reason assigned by the committee is that contrary school record of the blood relatives wherein they were described as 'Hindu', were concealed by the validity holders. We are afraid, 'Hindu' not being a caste but a religion, the validity holders could not have been alleged to have derived any benefit by concealing this school entries which were 'Hindu'. Besides, even if the committee has now decided to re-open the validities of Sunil Janardhan Thakur and Bhagyashri Sunil Thakur, till the time, it is able to do so, the petitioners cannot be deprived of having its benefit.

9. Again, not even a single contrary entry could be traced by the committee to belie the petitioners' claims of being 'Thakur'.

10. Incidentally, though there are several 'Thakar' entries, 'Thakar' and 'Thakur' fall in the same entry at serial no. 44 of the Presidential Order.

11. In the light of above, the petition is allowed partly.

12. Impugned judgment and order dated 11-10-2024 passed by respondent no. 2 – scrutiny committee is quashed and set aside.

13. Respondent no. 2 – scrutiny committee shall issue certificates of validity to petitioners of 'Thakur' scheduled tribe immediately in prescribed proforma and the same shall be subject to the outcome of reverification undertaken by the scrutiny committee of the earlier validity holder.

14. The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/