



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

WRIT PETITION NO. 13651 OF 2023

Prasad Lotan Thakur .. Petitioner

Versus

Scheduled Tribe Certificate Scrutiny
Committee through its Member
Secretary .. Respondent

AND

WRIT PETITION NO. 2330 OF 2024

Yash Chandrakant Thakur .. Petitioner

Versus

Scheduled Tribe Certificate Scrutiny
Committee through its Member
Secretary .. Respondent

Shri Mahesh S. Deshmukh, Advocate for the Petitioner in both matters.

Shri R. S. Wani, A.G.P. for the Respondent in W. P. No. 13651 of 2023.

Shri K. N. Lokhande, A.G.P. for the Respondent in W. P. No. 2330 of 2024.

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

DATE : 29 JULY 2024.

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

. Considering the urgency expressed, we have heard these matters finally at the admission stage.

2. Both the petitioners are from the same family and are relying upon common record in support of their tribe claims. We, therefore, propose to decide these petitions by common order.

3. The tribe claim of the petitioner in Writ Petition No. 13651 of 2023 was rejected by judgment and order dated 30.01.2023. Whereas, tribe claim of the petitioner in Writ Petition No. 2330 of 2023 was rejected vide judgment and order dated 13.03.2023. The tribe certificates in both the matters are confiscated and invalidated. They rely on validity certificates of Subhash, Sunita, Rakesh, Vishwajeet, Yugandhara, Priyanka and many others. In view of 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* a parity is claimed by the petitioners. It is further contended that show cause notice issued to Narendra Yuvraj Mahale for recalling his validity certificate was dropped by order dated 04.10.2023, which is tendered across the bar.

4. Learned Assistant Government Pleader would oppose the submissions of the petitioners. He tenders on record file of petitioner-Prasad to show that there are contrary entries. It is further contended that petitioner-Prasad did not attend the proceedings to point out the validities given in the family. He would submit that petitioners failed in the affinity test. It is vehemently submitted that the validity certificates upon which reliance is placed have not been disclosed by the petitioners before the Scrutiny Committee.

5. We have considered rival submissions of the parties and gone through original file placed on record. It reveals from the record of petitioner-Prasad that while submitting Form F names of the validity holders were not disclosed. In Form E only name of Subhash Yadavrao Thakur was disclosed as validity holder. In the matter of petitioner Yash, there is candid disclosure of validity certificates of Narendra, Jitendra and Subhash. The relationship of the petitioners with the validity holders has not been disputed by the learned A. G. P.

6. Subhash Yadavrao Thakur is the first validity holder. His name was disclosed in Form E by the petitioner. During the course of vigilance of petitioner Prasad, genealogy given by Sunita Yuvraj Mahale was considered. It was revealed during the vigilance enquiry that Sunita and Yuvraj were issued with the validity certificates. The scrutiny committee had opportunity to gather information regarding validity certificates issued in the family of the petitioners. Though it is responsibility of the claimants to disclose validity certificates in the family, even the scrutiny committee could have easily traced the validities in the family. Therefore, we are not ready to accept the submissions of the learned A. G. P. that Prasad's claim should be non suited for non disclosure of the validites.

7. It reveals from the record that not only there are number of validity holders in the family of the petitioners, but Yugandhara, Vishwajit, Rakesh, Kanhaiyalal and Vaibhav were issued with

the validity certificates by the High Court in various proceedings. We have considered orders passed in the matter of Vishwajeet by our Court in Writ Petition No. 10177 of 2022 decided on 27.07.2023 as well as common order dated 13 July 2023 in the matters of Rakesh and Yugandhara. Self same record has already been scrutinized by the High Court as well as Scrutiny Committee on number of occasions in granting validity certificates. We have no hesitation to hold that validity certificates relied by the petitioners would enure to their benefit.

8. In the matter of Prasad, the Scrutiny Committee overlooked validity certificates of Subhash and Sunita disclosed during the vigilance enquiry. No endeavour is made to offer any comment on that aspect. In the matter of Yash arbitrarily validity certificates of Narendra, Jitendra and Subhash were discarded. The findings in both these matters are unsustainable.

9. Learned counsel for the petitioners has adverts our attention to the judgment of the Scrutiny Committee dated 04.10.2023 in the matter of Narendra Yuvraj Mahale, wherein show cause notice for recalling the validity certificate was cancelled. We are of the considered view that the judgment is an endorsement on the tribe claim of the petitioners.

10. It transpires from record that blanket validity certificates were issued to earlier validity holders. This aspect is considered by a speaking order in paragraph No. 11 of common judgment and order dated 13 July 2023 passed in Writ Petition No. 10177

of 2022 in the matters of Rakesh and Yugandhara by our Bench. Thereafter, blanket validity certificate was directed to be issued to Vishwajeet. Both the petitioners deserve to be issued with the validity certificates without incorporating any condition. We, therefore, pass following order :

O R D E R

- A) The writ petitions are allowed.
- B) Both impugned judgment and orders dated 30.01.2023 and 13.03.2023 passed by the respondent /Scrutiny Committee are quashed and set aside.
- C) The respondent/Scrutiny Committee shall immediately issue tribe validity certificate to the petitioners as belonging to 'Thakur' scheduled tribe in the prescribed proforma without incorporating any conditions.

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

bsb/July 24