

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16999 OF 2024

DATE : 26th NOVEMBER, 2024

For approval and signature of

THE HON'BLE SHRI RAVINDRA V. GHUGE, J.
AND
THE HON'BLE SHRI ASHWIN D. BHOBE, J.

1. Whether Reporters of local papers may be allowed to see the judgment ?)
)
2. To be referred to the Reporter or not ?)
3. Whether Their Lordships wish to see the fair copy of the judgment ?)
)
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any Order made thereunder ?)
)
)
)
5. Whether it is to be circulated to the Civil Judges ?)
)
6. Whether the case involves an important question of law and whether a copy of the judgment should be sent to Nagpur, Aurangabad and Goa Offices?)
)
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)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.16999 OF 2024

Soham Santosh Garud

Age 18 years, Occu. Student, R/o.

1030 Ambrad (Mogaranewadi) Tal

–Kudal, District- Sindhudurg 416602.Petitioner

Vs.

1. The State Of Maharashtra Through
its Principal Secretary, Tribal
Development Department, Mantralaya, Mumbai

2. The Schedule Tribe Caste Certificate
Verification Committee, Kokan
Division, ThaneRespondents

Adv. Shrivallabh S. Panchpor a/w Adv. Pradnya A. Borhade for the
Petitioner.

Mr. S. H. Kankal, AGP for the State.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 26th NOVEMBER, 2024

Oral Judgment (Per Ravindra V Ghuge, J)

1. **Rule.** Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner is aggrieved by the judgment of the Scrutiny Committee dated 7th October, 2024 by which the claim of the Petitioner of belonging to the Thakar Scheduled Tribe Category has been invalidated. The contention of the Petitioner is that the family tree would indicate that there are four validity holders from the branch of the Petitioner's ancestor, from the paternal side. For ready reference, a family tree is placed before us which was also tendered to the vigilance cell when the proceedings of the Petitioner were being considered. The same is taken on record, and marked 'X' for identification.

3. The Petitioner is from the branch of Vithoba Garud. Ravji Garud is said to have two sons, Vithoba Ravji and Vaman Ravji. Vithoba is said to have two sons namely, Tukaram Vithoba and Prabhakar Vithoba. The present Petitioner is the son of Santosh Tukaram and grand-son of Tukaram Vithoba. Santosh Tukaram had two biological brothers, namely Gajanan Tukaram and Vinayak

Garud. All these three, Santosh, Gajanan and Vinayak, have been granted validity certificates. Aniket s/o Gajanan has also received the validity certificate, Therefore, reliance is placed on **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur**, 2010 (6) Mh.L.J.401, to contend that when two close relatives from the paternal side are granted validity certificates, the Committee could not have denied a validity certificate to the Petitioner.

4. The learned AGP has vehemently opposed this petition on the basis of the reasons set out in the impugned order of the Committee. He specifically points out Clause (i) on internal Page No.22 of the Committee's report to indicate that the school entry of Tukaram Vithoba, as on 1st December 1945, indicates certain interpolations in rows 4 to 13, which entries are found to be made recently in fresh ink and the ink also is the same. The hand writing is also the same.

5. He, therefore, submits that the Committee noticed an element of fraud in such entries which were not considered or were overlooked when the three sons of Tukaram Vithoba, namely Gajanan, Santosh and Vinayak were granted validity certificates.

He, however, fairly submits on the basis of the record that a show cause notice for reopening the cases of Gajanan, Santosh, Vinayak or Ankit have not yet been issued. He, therefore, relies upon the view taken by this Court in the case ***Shweta Balaji Isankar vs. The State of Maharashtra and others***, reported in 2018 SCC Online Bom 10363.

6. Considering the above, notwithstanding a specific conclusion drawn by the Committee on the basis of the record, we find that, since show cause notices have not been issued for reopening the four cases on which the Petitioner places reliance, the view of this Court in ***Apoorva Nichale*** (supra) would be applicable. So also, the Hon'able Supreme Court has held in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and others***, AIR 2023 SC 1657, that if close blood relatives from the paternal side are granted validity certificates and if the relationship as not disproved, a validity certificate can be granted to the claimant.

7. To balance the equities, we have to be conscious of the specific conclusion of the Committee in the present case that certain age old entries, now appearing to have been taken in fresh ink, by

use of the same ink and in the same in hand writing, could be a ground for reopening of the said cases.

8. Taking holistic view of the above factors, **this Writ Petition is partly allowed**. The impugned order of the Committee, dated 7th October, 2024, is quashed and set aside. The Committee shall issue a Thakar Scheduled Tribe validity certificate to the Petitioner, within 30 days from the today.

9. Keeping the view taken by this Court in *Shweta Isankar* (supra), we record that if the cases of any of these four validity holders is/are reopened by the Committee or by a Competent Authority and if they suffer invalidation, as a result of the reopening of their case, the consequences that would follow, would also be-fall upon the present Petitioner.

10. Rule is made partly absolute in the above terms.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)