



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

(SR. NO. 55) WRIT PETITION NO. 13994 OF 2024

- | | | | |
|----|------------------------------|---|------------------|
| 1. | Sanjay s/o Krushna Thakur, |) | |
| | Age- 40 years, Occ. Service, |) | |
| | R/o At & Post- Lakhmapur, |) | |
| | Tq. Satana, Dist. Nashik. |) | |
| 2. | Vishal s/o Krushna Thakur, |) | |
| | Age- 42 years, Occ. Service, |) | |
| | R/o At & Post- Lakhmapur, |) | |
| | Tq. Satana, Dist. Nashik. |) | Petitioners |

Versus

- | | | | |
|----|--------------------------------------|---|----------------|
| 1. | The State of Maharashtra |) | |
| | Department of Tribal Development, | | |
| | Mantralaya, Mumbai- 32 |) | |
| | Through its Secretary. |) | |
| 2. | The Scheduled Tribe Certificate |) | |
| | Scrutiny Committee, Nashik Division, |) | |
| | Nashik, Tq. & Dist. Nashik. |) | |
| | Through its Member Secretary. |) | |
| 3. | The Commandant-in-Charge (IRB), |) | |
| | State Reserve Police Force, | | |
| | Group no.14, Chh. Sambhajinagar, |) | |
| | Tq. & Dist. Chh. Sambhajinagar |) | ...Respondents |

AND

(SR. NO. 56) WRIT PETITION NO. 13995 OF 2024

- | | | | |
|--|--------------------------------|---|-----------------|
| | Krushna D/o Keda Isai (Thakur) |) | |
| | Age- 68 years, Occ. Pensioner, |) | |
| | R/o At & Post- Lakhmapur, |) | |
| | Tq. Satana, Dist. Nashik. |) | Petitioner |

Versus

- | | | | |
|----|--------------------------|---|--|
| 1. | The State of Maharashtra |) | |
|----|--------------------------|---|--|

Husen

- Department of Tribal Development,)
 Mantralaya, Mumbai- 32.)
 Through its Secretary.)
2. The Scheduled Tribe Certificate)
 Scrutiny Committee, Nashik Division,))
 Nashik, Tq. & Dist. Nashik.)
 Through its Member Secretary.)
3. The Joint Director of Industries,)
 Near ITI, Tryambak Road, Nashik,)
 Tq. & Dist. Nashik.)
4. The General Manager,)
 District Industries Centre,)
 Nashik, Tq. & Dist. Nashik.) ...Respondents

Mr.Sushant C. Yeramwar for Petitioners in both Petitions.
 Mr. K.S. Thorat, 'B' Panel Advocate for Respondent Nos.1 & 2
 in WP/13994/2024.
 Ms. S.S. Benhde, AGP for Respondent Nos. 1 to 3 in
 WP/13995/2024.

**CORAM : RAVINDRA V. GHUGE AND
 M.M. SATHAYE, JJ.**

DATE : 14th OCTOBER, 2024

ORAL JUDGMENT (Per Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally, by the consent of the Parties.

2. In first Petition, the Petitioners are siblings. In the second Petition, the Petitioner Krushna is the biological father of the siblings. Petitioner Krushna is the son of Keda, grand son of

Bala and great grand son of Gangaram Kushaba. The other two siblings namely Vishal and Sanjay (Petitioners in Writ Petition No. 13994 of 2024), are the biological sons of Krushna.

3. These Petitioners have made multiple rounds to this Court and the matters have been remitted to the Competent Tribe Committee for considering their claim of belonging to Thakur Scheduled Tribe.

4. We have considered the strenuous submissions of the learned Advocate for the Petitioners and the learned AGPs on behalf of the Committee.

5. In *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti V. State of Maharashtra & Ors*, 2023 SCC OnLine SC 326, the Hon'ble Supreme Court, while dealing with the Thakur Scheduled Tribe category cases, has drawn certain conclusions in paragraph Nos. 21, 22 & 23, which read as under:

“21. In the impugned judgment in Civil Appeal No. 2502 of 2022 (Shilpa Vishnu Thakur’s case), the Full Bench of the Bombay High Court has noted that people having the surname “Thakur” belong to both forward castes and various backward castes. Therefore, the Full Bench may be right in saying that in every case, only on the basis of the surname Thakur, it cannot be concluded by the Scrutiny Committee that the applicant belongs

to Scheduled Tribe Thakur notified in the Entry 44 of the Maharashtra list. However, we must note that in the case of a person having the surname Thakur, there may be evidence in the form of entry of the name of the caste as a Tribe or Scheduled Tribe in the land records, school or college records or any official records concerning the applicant or his ancestors. Only on the ground that the persons having the surname Thakur may belong to a forward caste as well, it is not necessary that in every case, the Scrutiny Committee should send the case to Vigilance Cell. It all depends on the nature of the documents produced before the Caste Scrutiny Committee and the probative value of the documents. Therefore, whenever a caste claim regarding Thakur Scheduled Tribe is considered, the Caste Scrutiny Committee in every case should not mechanically refer the case to the Vigilance Cell for conducting an enquiry including affinity test. The reference to the Vigilance Cell can be made only if the Scrutiny Committee is not satisfied with the material produced by the applicant.

22. *We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil's case or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity*

certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil, the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by Section 9(d) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative.

23. In a given case, the Scrutiny Committee may be satisfied that the caste validity certificate relied upon by the applicant has been issued after making a lawful enquiry. But if the Scrutiny Committee is of the view that the applicant has not clearly established that the person to whom caste validity certificate produced on record has been granted is his blood relative, in terms of sub-rule (2) of Rule 12 of the ST Rules, the Caste Scrutiny Committee will have to refer the case for conducting an enquiry through Vigilance Cell. In such a case, the Vigilance Cell can be directed by

the Scrutiny Committee to conduct an enquiry limited to the relationship claimed by the applicant with the person in whose favour the caste validity certificate has been issued. If, on the basis of the report of the Vigilance Cell, the Scrutiny Committee is satisfied that the person in whose favour caste validity certificate has been issued is a blood relative of the applicant and lawful enquiry has been conducted before issuing the validity certificate, the Scrutiny Committee will have to issue validity certificate even if the applicant does not satisfy the affinity test. For example, if it is established that the father or grandfather of the applicant has been given a caste validity certificate after holding a lawful enquiry in accordance with law, the Caste Scrutiny Committee cannot hold that the grandfather or father of the applicant, as the case may be, belongs to Scheduled Tribe but the applicant does not belong to Scheduled Tribe. Only if the relationship as pleaded by the applicant is not established, the other evidence produced by the applicant and the result of the affinity test can be taken into consideration by the Scrutiny Committee.”

6. It is, thus, settled that if there has been a Vigilance Cell inquiry in some of the cases who can be said to be blood relatives of the Petitioners from the paternal side and if validity certificates are granted to them, it is not necessary that a Vigilance Cell inquiry will have to be conducted in each case. If no Vigilance Cell inquiry is conducted, it would be open to the Committee to cause a Vigilance Cell inquiry and consider such cases independently.

7. In **Apoorva d/o Vinay Nichale Vs. Divisional Caste**
Husen

Certificate Scrutiny Committee No.1 Nagpur, [2010(6) Mh.L.J.401 : 2010(6) AIR Bom.R.21], this Court has concluded that if blood relatives from the paternal side are granted validity certificates, concluding that they belong to a particular reserved category, it would not be open to the Committee to arrive at a different conclusion with relation to a candidate who is a blood relative of the validity holder from the paternal side. For an illustration, if the father and his biological brothers belong to a particular backward category, the son or the daughter cannot be held to be not belonging to that category.

8. In the present case, the genealogy tree has been adverted to by the Competent Authority in the impugned order, which led to invalidation of claims of these three Petitioners. We find that, the same reflects around 5 generations and the oldest known ancestor is Kushaba Thakur. For convenience, we are adverting to the family tree branch of Rangnath Laxman Thakur and his biological brothers, Nimba Laxman Thakur, Anna Laxman Thakur and Namdev Laxman Thakur. Their father was Laxman Rangu Thakur and grand father was Rangu Kushaba Thakur. Rangu Kushaba is said to have a biological brother Gangaram Kushaba Thakur. Yuvraj Bhausaheb is the grand-son

of Namdev Laxman Thakur, who is one amongst four siblings. Nimba Laxman Thakur was childless.

9. Yuvraj Bhausaheb is granted a validity certificate by the Judgment of this Court [Coram: B.R. Gavai (as His Lordship then was) and Smt. Anuja Prabhudesai, J.J.], vide Order dated 04/10/2017, delivered in **Writ Petition No. 3453 of 2013 Yuvraj S/o. Bhausaheb Rajwade V. The State of Maharashtra & Ors.** For ready reference, we are reproducing paragraph Nos. 3, 4, 5 & 6 of the said Judgment, here under:

“3. The Petitioner claims to be Thakur Scheduled Tribe. Claim of the Petitioner was rejected on the ground that though the pre Constitutional document shows the Petitioner's ancestral caste to be Thakur, however it does not mean Schedule Tribe. Another ground is that the Petitioner has failed to Affinity Test.

4. In so far as the first ground is concerned, there could be no reason as to why the pre Constitution document should mention a Scheduled Tribe. In that way the objection of the old and inadequate ground in our view is not sustainable. We notice that the Petitioner has placed on record document pertaining to his grand father viz. Namdeo Laxmanrao Thakur, which is an extract of administrtion register taken on 1.8.1936 showing his caste as Thakur. It may be noted that the Vigilance Cell has found it to be genuine.

5. It is further to be noted that the Petitioner is grandson of one Namdeo Thakur. Namdeo Thakur

had seven sons. One of them was Dharmaraj. The claim of Dharmaraj as well as his son has been held to be valid by the Scrutiny Committee. The claim of the another grandson of Namdev Thakur i.e. Nilesh Rajwade (Thakur) had also found to be valid by the Scrutiny Committee. It can be thus, seen that father and brother of the Petitioner and two of his first cousins have been held to be belonging to Thakur Scheduled Tribe. Rule is therefore, made absolute in following terms :

6. It is held and declared that the Petitioner is belonging to Thakur Scheduled Caste. The Respondent Scrutiny Committee to issue validity certificate in favour of the Petitioner within a period of four weeks from today.”

10. Now, the brother of Yuvaraj, namely Dhananjay Bhausahab has been granted a validity certificate. The biological brothers of Bhausahab are Prabhakar, Dhamaraj, Anil, Sunil, Sanjay & Rajendra. Chetan s/o Prabhakar, Anklesh s/o Anil, Nilesh s/o Sunil, Ganesh and Rahul s/o Sanjay, have been granted validity certificates. Sulabha d/o Rajendra Bhaurao, Shaila d/o Vishwanath Annaji, have also been granted validity certificates. Kishor s/o Vishwanath and his daughter Juhi, have also been granted validity certificates.

11. There are around 19 validity holders from the paternal side of the present Petitioners. In these circumstances,

the law laid down in **Apoorva d/o Vinay Nichale (supra)** would be squarely applicable.

12. The learned AGPs have opposed these Petitions and contended that in some of the cases, notices for reopening of the cases have been issued. Those cases would be processed in accordance with the procedure applicable.

13. In **Shweta Balaji Isankar vs. The State of Maharashtra and Others**, Writ Petition No.5611/2018 decided on 27.07.2018 (2018 SCC OnLine Bom 10363), this Court has concluded in paragraph Nos.2 to 4 & 8, which read as under:

“2 On the earlier occasion, we found that though the petitioner produced credible evidence in the form of certificates of validity issued to her real uncle Govind Sambhaji Isankar and which concededly has been issued way back on 5th December 2005 and another certificate of validity dated 5th September 2006 to his cousin uncle Ramdas Sambhaji Isankar, the Committee finds that the certificate of validity issued to the real uncle Govind, is not free from suspicion. It is held by the Committee in the impugned order that a notice to show cause has been issued to said Govind on 14th September 2017, calling upon him to show cause as to why this certificate of validity should not be cancelled as its issuance is vitiated by fraud or suppression of material facts by the said Govind.

3 On such a finding being rendered by the Committee, we called upon the learned AGP on the earlier two occasions to produce the record.

We also indicated to the learned AGP as to how the certificate of validity is denied to the petitioner though she has established her relationship with the said Govind and only on the ground that a show cause notice has been issued, but no proceedings in furtherance thereof came to be initiated till date. The learned AGP sought time to file an affidavit. Now, the Joint Commissioner, Schedule Tribe Scrutiny Committee, Aurangabad has filed an affidavit in reply. That is taken on record. The said affidavit admits that the certificate of validity has been issued to her real uncle and cousin uncle of the petitioner. The affidavit admits that the petitioner relies heavily on these two documents, but clarifies that there is a suppression detected from the original record of the certificate holder and that is how a show cause notice has been issued to Govind. The show cause notice could not be taken to its logical end on account of the huge pendency of cases before this Committee. In all, 7,000 matters were pending on the date when this Joint Commissioner took charge and he has reduced the pendency by 2500 cases being decided. In the circumstances, he says that appropriate orders and directions be issued by this Court.

4 We are not impressed by this explanation and the justification not to proceed against a person who has perpetrated a fraud on the public. If it is a serious allegation and which is termed as fraud, then, it should have been taken to its logical end. Mere issuance of a show cause notice in the present case would not suffice for there are two certificates of validity relied upon. The only reason assigned in the impugned order to discard them, cannot be sustained. The justification in the above affidavit is also not enough to straightaway discard the certificates of validity issued in the family. It is conceded that other reasons assigned in the impugned order cannot be supported in law.

8. This order does not prevent the Committee from proceeding against Govind in accordance

with law and needless to further clarify that in the event Govind's claim is invalidated, all the consequences shall be taken by the petitioner as well.”

14. In view of the above, the issue raised by the learned AGPs is that, because show cause notices have been issued in some of the cases, no further validities should be granted by this Court. We cannot ignore the fact that due to pendency of cases due to a heavy work load before the Committees, even students cases, are not decided for months together. In hundreds of the matters, this Court has granted time-lines and because the Committees are unable to complete the cases within the time-lines and sometimes purely on the ground of liberal adjournments granted by the Committees, many cases are pending.

15. As such, when there are 19 validity holders before us from the paternal side, these Petitions cannot be kept pending only because the Committee has issued show cause notices to some of the candidates. This issue has been dealt with in **Shweta Balaji Isankar (supra)**.

16. In view of the above, **these Writ Petitions are partly allowed**. The impugned orders invalidating **their claims are**

quashed and set aside, with the following directions:

(a) Validity certificates of Thakur Scheduled Tribe category would be issued to these Petitioners within 30 days.

(b) If any of the validity holders, on whom the Petitioners before us have relied upon for claiming validity, suffer invalidation in the reopened cases, the Committee would be at liberty to reopen these Petitioners' cases as well, and the consequences suffered by those candidates whose claims are invalidated (after reopening of the cases), would befall on these Petitioners as well.

17. Considering that Krushna had superannuated in 2015 and still has not received his pensionary benefits, the concerned authority shall forward the proposal of Krushna for the pensionary benefits, within 30 days. Needless to state that the Competent Authority should ensure that the pension papers (forwarded by Respondent No. 4), are cleared within 60 days and arrears of pension would be paid to the Petitioner (Krushna) within 90 days from today.

18. We are not granting interest on the said amount keeping in view that Krushna's claim was invalidated.

19. Rule made partly absolute in the above terms.

(M.M. SATHAYE, J.) (RAVINDRA V. GHUGE, J.)