

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17828 OF 2024

Kalpana d/o.Nimbaji Desai
Age – 59 years, Occ. Pensioner,
R/o At & Post -Jalgaon (Ni.),
Tq. Malegaon, Dist.Nashik ... Petitioner

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 ... Respondents

....
Mr.Sushant C. Yeramwar Jinturkar for the Petitioner.
Mr.A.K.Naik, AGP for the Respondents -State.
....

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

DATE : 9TH DECEMBER, 2024

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

1. The learned Advocate for the Petitioner submits that since Respondent No.3 has already superannuated, the name of Respondent No.3 can be deleted. Deletion be carried out forthwith.

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

3. By this Petition, the Petitioner seeks to challenge the order dated 27th September, 2024 passed by the Competent Committee, Nashik thereby invalidating the claim of the Petitioner of belonging to a 'Thakur' Scheduled Tribe category.

4. The learned AGP has strenuously defended the impugned order. He relies upon the reasons set out in therein and contends that this Petition deserves to be dismissed.

5. A list of 24 validity holders is at page Nos. 189-190, in the Petition paper book. The relation of the Petitioner with these validity holders from the paternal side is not disputed by the Committee. We have perused the family tree at page No. 191. Out of the 24 validity certificates received by the persons set out in the list Annexure -I, at page Nos. 189-190, 4 candidates have been granted validity certificates by the orders of this Court. Sanjay Krushna Thakur and Vishal Krushna Thakur and their father Krushna Keda Isai (Thakur), are those who have been granted validity certificates under the orders of this Court.

6. We have perused our judgment dated 14th October, 2024 delivered in Writ Petition No. 13994 of 2024 (*Sanjay s/o. Krushna Thakur & Anr. Versus The State of Maharashtra & Ors.*) and Writ Petition No. 13995 of 2024 (*Krushna S/o. Keda Isai (Thakur) Versus The State of Maharashtra & Ors.*). We have delivered an exhaustive judgment and analyzed the relationship of the Petitioner with those appearing in the genealogy tree. Even the Committee has not disputed the relationship of the present Petitioner Kalpana with the paternal relatives.

7. We are astonished by the fact that though there are 24 validity holders from the paternal side and the biological brother of Kalpana, namely, Jayant s/o. Nimbaji Desai has also been granted a validity certificate, the Committee has rejected the claim of the present Petitioner. We are surprised by the manner in which the Petitioner's case has been handled by the three Members of the Committee, namely, Shri Suresh Wankhede (Vice Chairman), Shri Santosh Thube (Member Secretary) and Smt. Hemlata Gavhane (Member).

8. When the Committee did not find the Petitioner's relationship with several validity holders disputable, the law laid down by this Court in *Apoorva d/o Vinay Nichale Vs. Divisional Caste*

Certificate Scrutiny Committee No.1 Nagpur, [2010(6) Mh.L.J.401 : AIR 2010(6) Bom.R.21], should have been followed by the Committee. It is also not the case that any of the validity holders has been issued with a show cause notice and the claim has been subsequently invalidated by recalling the earlier order of the Committee. No such instances are pointed out before us.

9. Therefore, we are intrigued as to what could be the foundation for the Committee to refuse validity certificate to the present Petitioner, when 24 paternal relatives have such validity certificates. The Committee also could not have ignored that the biological brother of the Petitioner, Jayant, was also granted a validity certificate. Those whose names were invalidated had approached this Court and this Court has allowed their Petitions and granted them validity certificates.

10. The learned Advocate for the Petitioner has rightly submitted that such behavior of the Committee needs to be deprecated since this not only causes serious prejudice and manifest inconvenience to the litigants, but it also results in unnecessary litigation being generated.

11. In view of the above and considering the four judgments of this Court granting validity certificates and the validity certificates of

the 20 other paternal relatives, **this Writ Petition is allowed.**

12. The impugned order dated 27th September, 2024 is quashed and set aside. The Committee shall issue a 'Thakur' Scheduled Tribe validity certificate within a period of 30 days from today.

13. Since this was a fit case for imposition of costs for the glaring circumstances/reasons recorded herein above, we contemplated imposing costs of Rs. 1,00,000/- to be paid by each of these Members to the Petitioner.

14. The learned AGP has pleaded before us that the cost amount should be reduced. We are imposing cost of Rs. 25,000/- to be paid by each of these Members to the Petitioner within a period of 15 days from today, in order to send a signal loud and clear to the said Committee Members, with a caveat that if, henceforth, we come across such cases, we would not only be imposing costs, but would be recommending to the Government, the removal of such Members from the Committee.

15. Rule is made absolute in the above terms.

(ASHWIN D. BHOBE,J.)

(RAVINDRA V. GHUGE, J.)