



Judgment

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

WRIT PETITION No. 3266/2021.

Adiwasi Nokarvarg Thakur Wa
Thaka Samaj Utkarsha Sanstha,
Maharashtra, office at Walhivare,
Post Office Morishi, Tq. Murbad,
District Thane, through Secretary,
Kantaram Narayan Khandavi,
Secretar at Walhivare, PO Morishi,
Tq. Murmad, District Thane 421 401.

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PETITIONER.

VERSUS

1.The State of Maharashtra,
through Secretary to the Government
of Maharashtra, Tribal Development
Department, Mantralaya, Mumbai 400032.

2.The Scheduled Tribe Caste Certificate
Scrutiny Committee, Government Rest
House, Opposite Office of State
Information Commissioner, Sana House
Old Bypass road, Chaprasipura,
Amravati 444 602, through its
Commissioner.

3.Shri Suraj Chatarsingh Ingale,
Rahat Nagar, Akoli Khurd,
Geeta Nagar Quarters, Tq.
District Akola.

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4.Charatsingh Narain Ingale,
Aged : Major, resident of
Rahat Nagar, Akoli Khurd,
Geeta Nagar Quarters, Tq.
District Akola.

5.Ku. Rupali d/o Chatarsingh Ingale
(Thakur), Aged 40, resident of
Aniket Line, Near Police Head
Quarter, Akola, District Akola.

6.Vaishali d/o Chatarsingh Ingale
(Thakur), Aged 38, resident of
Aniket Line, Near Police Head
Quarter, Akola, District Akola.

... **RESPONDENTS.**

Mr. M. Sudame, Advocate for the Petitioner.
Mr. A.M. Ghogare, A.G.P. for Respondent Nos. 1 and 2.
Ms. P. Rane, Advocate for Respondent Nos.3 to 6.

CORAM : VINAY JOSHI AND
M.S. JAWALKAR, JJ.

DATE : JULY 02, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard. Rule. Rule is made returnable forthwith and by
consent of learned Counsel appearing for the parties, the matter is
taken up for final disposal.

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2. Respondent no.2 Scheduled Tribe Certificate Scrutiny Committee, Amravati has validated the caste claim of respondent no.3 Suraj vide order dated 18.06.2021, which is impugned in the present petition by the petitioner – Adivasi Nokarvarg Thakur wa Thakar Samaj Utkarsha Sanstha, [Society]. Respondent no.3 Suraj claimed to be belonging to 'Thakur Caste' which is recognized as 'Scheduled Tribe' in relation to State of Maharashtra and enlisted at Sr.No.44 of the Constitution [Scheduled Tribe] Order, 1950.

3. It is the contention of the petitioner that the Caste Scrutiny Committee miserably erred in granting validity to Suraj despite the fact that Suraj failed to establish his tribe claim before the Committee. It is strongly contended that though the Caste Scrutiny Committee on facts concluded that the respondent Suraj failed to establish the caste claim, however, the Committee allowed his caste claim on the basis of two prior validities in the family. In view of observations made in Writ Petition No.6891/2018, directing the then Committee to pay costs of Rs.1 lakh, the Committee wrongly issued validity. Moreover, it is contended that one of the

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Member of the Committee has expressed dissenting view that validity cannot be issued to respondent no.3 Suraj.

4. The learned Counsel for the petitioner would submit that the impugned order itself is inconsistent and contradictory. The Committee in paragraph no.14 of the order recorded its conclusion that on the basis of ordinary place of residence, socio-cultural affinity, ethnic, racial linkage, the applicant's [Suraj] tribe claim does not warrant any consideration. The documentary evidence submitted by Suraj before the Committee does not prove ethnic linkage and is also inconclusive in nature. However, the Committee expressed that since two prior validities have been issued to the real sisters of father of respondent no.3, they are constrained to grant validity. Our attention has been invited to the dissenting view separately expressed by the third Member, who has seriously doubted about the validity of father of respondent no.3 Chatarsingh. It is argued that the petitioner being a registered Society for the protection of rights of tribals, they have objected the caste claim of respondent no.3 before the Committee, meaning thereby they were objector. According to the petitioner, the Committee ought to have

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rejected the caste claim as prior validities were not issued in accordance with law. It is submitted that though the caste claim of father of petitioner – Chatarsingh was validated by the Divisional Commissioner, Amravati, however, the copy of the order is suspicious/ doubtful, and therefore, it ought not to have been relied upon.

5. The petitioner has not only impugned the order of validity dated 18.06.2021 of respondent no.3 Suraj, but, has similarly challenged the validities issued in the family i.e. to real sisters Rupali and Vaishali. Moreover, the validity of father of petitioner Chatersingh has also been questioned. In view of this extended challenge, those aggrieved persons have been arrayed as respondents, who in turn appeared and resisted the petition.

6. The respondent contended that the petitioner is not an aggrieved party, therefore, it has no locus to challenge the validity. The Scrutiny Committee has examined the matter and after investigation through vigilance cell has granted validity, which is signed by all the three members. Though petitioner has right to raise

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an objection before the Committee, however, it has not shown how they have suffered legal injury, thus the petition is not tenable. Besides that, the learned Counsel appearing for the respondent took us through the impugned decision of the Committee, copies of documents tendered in support of the caste claim, various validity certificates issued in favour of the family of respondent no.3, the order passed by this Court by virtue of which the validities have been issued in the family and certified copy of the order dated 25.02.1989 passed by the Divisional Commissioner, Amravati validating the caste claim of petitioner's father – Chatarsingh.

7. Un-disputedly rejection of caste claim of petitioner's real sister Vaishali was challenged in Writ Petition No.2506/2005, in which vide order dated 23.08.2013, this Court has by upholding the caste claim, directed the Scrutiny Committee to issue validity certificate. Likewise, caste claim of petitioner's another sister Rupali though rejected, however, this Court in Writ Petition No.2505/2005 vide order dated 09.04.2014 validated the said claim. Pertinent to note that though both the orders of this Court were challenged by the State, however, the Special Leave Petition came to be dismissed

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before the Supreme Court on merits vide order dated 30.06.2016 [page no.316 of the paper book]. It is not in dispute that the caste claim of petitioner's cousin Ankit was validated by this Court in Writ Petition No.10424/2017 vide order dated 26.09.2017, and caste claim of petitioner's uncle Praful was validated by this Court in Writ Petition No.1661/2009 vide order dated 10.10.2013. In short 4 validities in the family have been tested before this Court in which the family members have succeeded in establishing their caste claim as belonging to 'Thakur Scheduled Tribe'. In the year 2016 itself the Special Leave Petition was dismissed, resulting into attaining finality to the caste claim of petitioner's real Sisters Rupali and Vaishali. In above background, the challenge raised before us is required to be considered.

8. Claimants have produced various pre-constitutional documents showing entry of Thakur caste in old record. The entry of cousin great grand father of petitioner namely Rahu dated 28.06.2015 was tendered. Likewise birth extract showing that petitioner's grand-father Narayan had a son Chatarsingh dated 04.05.1950 has been produced. It reveals from the impugned order

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that those entries have been ignored by the Committee for the reason that the record is in torn condition or not available, which reason would not sustain on the canvass of other co-related entries of Thakur caste. It reveals that the Committee while rejecting the claim of petitioner, has reproduced the district gazette record in extenso. It is not in dispute that twice vigilance enquiry was made by the Committee.

9. The Committee has doubted the validity of petitioner's father approved by the Divisional Commissioner, Amravati. Certified copy of said order has been tendered for our perusal in which one of the Committee member has doubted the said decision for perfunctory reasons, like it was a handwritten decision, there is no signature, copy was obtained by Advocate etc. In order to falsify the genuineness, the claimant has produced roznama maintained by the office of the Commissioner indicating about pendency and note of the decision. On mere speculation the authenticity of old documents can not be doubted. This Court has gone through various pronouncements rendered by this Court while upholding the

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validities of other family members. It is apparent that they have equally relied on the validation of caste claim of petitioners father Chatarsingh, and thus the issue raised was already dealt with by this Court. Rather it was later on confirmed by the Supreme Court.

10. True in certain circumstances, prior validities can be discarded, however, this is not a case that no vigilance enquiry was made, nor it is contended that the claimants have obtained the validity by practicing fraud. The vigilance enquiry was also done in those cases and thus, the procedure has been followed. In that view of the matter, it is not possible to accept the urge to reopen the validities, which were granted by this Court and approved by the Supreme Court. Rather we are of the considered view that this petition is nothing, but, filed to wreak vengeance, which deserves to be dealt with sternly. In the circumstances, we see no merits in the contentions raised by the petitioner.

11. Writ Petition is dismissed with costs of Rs.10,000/- (Rs. Ten Thousand), to be deposited with the High Court Legal Services Sub Committee, Nagpur within a period of two weeks from the date

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of uploading of this order. If the costs are not deposited by the petitioner, it shall be recovered as arrears of land revenue. Rule discharged.

JUDGE

JUDGE