

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

WRIT PETITION NO.8379/2018

Swapnil S/o. Pundlik Dhakate Vs. State of Maharashtra and Ors.

WITH

WRIT PETITION NO.6145/2018

Shri Sakharam S/o. Budha Dhakate Vs. State of Maharashtra and Ors.

Mr. R. S. Parsodkar, Advocate for Petitioner.
Mr. D. P. Thakare, Addl.G.P. for Respondent Nos.1 & 2/State.
Mr. S. R. Puddatwar, Advocate h/f. Mr. D. M. Kale, Advocate for
Respondent Nos.3 & 4 in Writ Petition No.8379/2018.

CORAM : **NITIN W. SAMBRE AND**
MRS.VRUSHALI V. JOSHI, JJ.

DATED : **22/11/2024.**

P.C.

. The petitioner has sworn an affidavit which is produced at Annexure-P-16 page 146 dated July 7, 2018 thereby claiming that he was born to Pundalik and his grand father is Budha. Similarly, his uncle Sakharam was also born to Budha and Shivani, daughter of Sakharam i.e. his cousin sister is claimed to have been granted validity by virtue of the order dated September 1, 2023 delivered in Writ Petition No.5185/2023. By way of additional affidavit, the aforesaid subsequent development is brought on record by Mr. Parsodkar, the learned Counsel appearing for the petitioner.

2. Mr. Parsodkar, the learned Counsel in this background would urge that the reasons cited in the order impugned dated November 28, 2018 rejecting the claim of the petitioner for grant of validity were similar to one in the matter of Shivani and the order of the Committee based on the said reasoning, was set side by this Court in

Writ Petition No.5185/2023.

3. Since the petitioner has already taken a stand about his relation with Shivani, the daughter of Sakharam, who happened to be real brother of the father of the petitioner - Pundalik, we deem it appropriate to quash and set aside the impugned order dated November 28, 2018.

4. As far as Writ Petition No.6145/2018 is concerned, the fact remains that the petitioner's daughter Shivani is already granted validity as referred supra.

5. In such an eventuality, the anomaly is that the daughter is holding a validity whereas the father is held to be not belonging to Scheduled Tribe Category.

6. As such, the order impugned in the said Writ Petition No.6145/2018 in relation to negating the tribe claim of Sakharam passed by the respondent Committee on July 13, 2018 is also set aside.

7. The petitioners shall appear before the respondent Committee on December 9, 2024.

8. The respondent Committee shall have regard to the order of this Court in *Writ Petition No.5185/2023 Shivani d/o. Sakharam Dhakate Vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Chandrapur* decided on September 1, 2023 and shall pass a fresh order expeditiously and in any case, within a period of four months from the date of appearance of the petitioners.

9. We make it clear that on December 9, 2024 it shall be open for the petitioners to file all such documents which they intend to, in the form of additional evidence so

as to establish and justify his claim including that of the order in the matter of Shivani delivered by this Court referred above.

10. Till the claims of the petitioners are decided, as the petitioners' cousin sister/daughter respectively is holding a validity under the order of this Court, there shall be no coercive action against the petitioners as regards their services.

11. The petitions accordingly stand partly allowed in above terms.

(MRS. VRUSHALI V. JOSHI, J.) (NITIN W. SAMBRE, J.)