



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO.1368 OF 2007
WITH
CIVIL APPLICATION NO.865 OF 2025
IN
WRIT PETITION NO.1368 OF 2007**

SATISH NARAYAN SHINDE. ...PETITIONER

-VERSUS-

THE STATE OF MAHARASHTRA
AND OTHERS. ...RESPONDENTS

...

Shri Madhur A. Golegaonkar, Advocate for the Petitioner.
Shri S.V. Hange, AGP for Respondent Nos.1 to 4/State.

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**CORAM : MANGESH S. PATIL
&
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 06th February, 2025

PER COURT (Per Prafulla S. Khubalkar, J.) :-

Heard advocate Shri Golegaonkar, for the petitioner and advocate Hange, the learned AGP for respondent Nos.1 to 4/ State. In the past, none appeared for respondent Nos.5 and 6 and even today, none present for them.

2. Ad-interim relief has been operating in this matter since 29.08.2009. Now, the matter is taken up for final hearing.

3. The petitioner has challenged the order dated 31.01.2007 passed by respondent No.2 Scrutiny Committee invalidating his claim for 'Thakur', Scheduled Tribe.

4. By the impugned order, the Scrutiny Committee has inferred that the petitioner has failed to establish his tribe claim on the basis of documentary evidence and affinity test.

5. Advocate Shri Madhur A. Golegaonkar for the petitioner vehemently argued by pointing out that there were ample documents to establish the petitioner's tribe claim including validity certificates of his real sisters Manjushri and Sharda, however, the Scrutiny Committee adopted perverse approach and discarded documentary evidence. It is also submitted that the petitioner's claim ought to have been validated in view of validity certificates of his real sisters which are in force. The Scrutiny Committee has erred in concluding that the petitioner failed to establish his affinity with Thakur tribe.

6. Advocate Shri S.V. Hange, learned AGP for respondent Nos.1 to 4/ State, supported the impugned order. He invited our attention to the observations of the Scrutiny Committee with respect to documentary evidence filed by the

petitioner. He submitted that the petitioner was required to prove his tribe claim independently and cannot simply rely upon validities of his real sisters. It is submitted that validity certificates were issued without considering other documentary evidence which was vital for deciding their tribe claims and, therefore, rightly discarded by the Committee.

7. We have considered the rival submissions and perused the record.

8. The petitioner had filed total 42 documents in support of his tribe claim which included validity certificates in favour of his real sisters Manjushri Narayan Shinde dated 23.05.2003 and Sharda Narayan Shinde dated 22.11.2004. While dealing with these validity certificates, the Scrutiny Committee referred to the judgment in ***Kumari Madhuri Patil and another vs. Additional Commissioner, Tribal Development, Thane and others, 1994(6) SCC 241*** and by stressing upon observation that each case needs to be considered in the backdrop of its own facts, it refused to rely upon validity certificates of real sisters. It has to be noted that validity certificates in favour of the petitioner's real sisters Manjushri and Sharda are in force and he

is entitled to derive benefit. Although the Scrutiny Committee submitted that the notice is already issued to Manjushri alleging suppression of documents at the time of decision of her claim, same cannot be a factor to nullify the effect of validity which is existing. It is pertinent to note that no such notice is issued to another real sister Sharda.

9. We have perused the original record in the matters of the petitioner, her sister Manjushri and his cousin brother Prashant Anandrao Shinde. The record reveals that the validity of Manjushri was granted by following due process wherein, vigilance cell enquiry was conducted and based on documentary evidence submitted by her, by a reasoned order, her claim was validated.

10. In view of the settled position of law in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and others, AIR 2023 SC 1657***, the scope of enquiry is mainly with respect to the procedure followed while granting validity. In the instant case, since the validity was granted to Manjushri by following due procedure, the petitioner being her real brother is entitled to take its benefits.

Hence, in view of the judgment in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)*** and ***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]***, the petitioner is entitled for validation of his tribe claim, however, same has to be co-terminus with the validities of Manjushri and Sharda. Hence, we pass the following order:-

- (a) The Writ Petition is partly allowed.
- (b) The impugned order dated 31.01.2007 passed by respondent No.2 Scrutiny Committee is quashed and set aside.
- (c) Respondent No.2 Scrutiny Committee is directed to immediately issue a validity certificate of 'Thakur', Scheduled Tribe, in favour of the petitioner.
- (d) The validity certificate to be issued to the petitioner, shall be subject to the final outcome of the matters of validity holders, which the Scrutiny Committee has decided to reopen.
- (e) The petitioner shall not be entitled to claim equities.
- (f) No order as to costs.

11. The pending Civil Application does not survive and stands disposed of.