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

**WRIT PETITION NO.3608 OF 2007**

Amol s/o Arun Thakur,  
Age:\_\_\_ years, Occu: Student,  
R/o Deepnagar, New E Type 61/2,  
Bhusawal, Tq. Bhusawal,  
Dist. Jalgaon

....PETITIONER

VERSUS

1) The State of Maharashtra,  
Through its Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai-32

2) The Member Secretary,  
Scheduled Tribe Certificate  
Scrutiny Committee,  
Nashik Division, Nashik

....RESPONDENTS

....

Mr Madhur A. Golegaonkar, Advocate h/f Mr Anil S. Golegaonkar,  
Advocate for petitioner  
Ms S. S. Joshi, A.G.P. for respondents

**CORAM : MANGESH S. PATIL**

**AND**

**PRAFULLA S. KHUBALKAR, JJ.**

**DATE : 5th February, 2025**

**JUDGMENT (PER : PRAFULLA S. KHUBALKAR, J.)**

1. Heard advocate Mr Madhur Golegaonkar, holding for  
advocate Mr A. S. Golegaonkar for the petitioner and advocate Ms S.  
S. Joshi, learned A.G.P. for respondents.

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2. This writ petition was admitted by order dated 29/03/2010 with interim relief in favour of the petitioner. The matter is taken up for final hearing.

3. The petitioner takes exception to the order dated 06/10/2006, passed by respondent No.2/Scheduled Tribe Certificate Scrutiny Committee, Nashik, invalidating his claim for 'Thakur' Scheduled Tribe in a proceeding under Section 7 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000/Maharashtra Act No.XXIII of 2001.

4. Respondent No.2/scrutiny committee has observed that the petitioner failed to establish his claim on account of documentary evidence, as well as failed to prove affinity with 'Thakur' scheduled tribe. While dealing with the validity certificate relied upon by him, the committee has observed that, in view of the position of law prevailing at the relevant time, the petitioner could not be given benefit of validity certificate.

5. Advocate Mr Madhur Golegaonkar for the petitioner vehemently submitted that the impugned order is absolutely

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unsustainable in view of the settled position of law. He submitted that the petitioner had filed 48 documents in support of his caste claim which included revenue records, birth/death register entries, extracts of school records of his paternal side relatives. The main thrust of the arguments is the petitioner's reliance upon validity certificate of his father Arun Ananda Thakur. It is submitted that, the committee has referred to this validity certificate by observing that although the validity was granted by relying upon the judgment in the matter of **Palghat Jilla Thandan Samudhaya Samrakshana Samithi and another Vs. State of Kerala and another, [1994 (1) SCC 359]**, however, in view of the position of law in the matter of **Sunil Muralidhar Thakur and another Vs. State of Maharashtra and others** (Writ Petition No.3153/1996), the validity could not be relied upon. He strenuously submitted that the approach of the committee is perverse in discarding the validity of petitioner's father, which is in force and has attained finality. He also submitted that the conclusions of the committee about failure in affinity test and the petitioner's residence being not from the scheduled area, are also unsustainable.

6. Per contra, advocate Ms Joshi, learned A.G.P. for respondents opposes the petition and justifies the impugned order. She submits that the validity of the petitioner's father was a conditional

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validity and it was made subject to decision in the matter of **Baburao s/o Rajaram Shinde Vs. State of Maharashtra and others [2002 (4) Mh.L.J. 310]** in Writ Petition No.4123/1999, which was pending before the division bench at that time, and therefore, the petitioner cannot completely rely on such conditional validity. She also submits that, in view of the position of law as laid down in **Kumari Madhuri Patil and anr. Vs. Addl. Commissioner, Tribal Development and others, [(1994) 6 Supreme Court Cases 241]**, each case needs to be decided on its own merits, and therefore, the petitioner's claim was rightly considered independently.

7. During the course of arguments, the learned counsel for the petitioner produces a copy of the vigilance cell enquiry report dated 28/11/2000 in the matter of his father, alongwith a copy of the order dated 08/05/2002 passed by the Scrutiny Committee, Nashik granting validity to his father.

8. We have considered the rival submissions and perused the papers. It has to be noted that the documents submitted by the petitioner including the pre-presidential order era consistently show the caste as 'Thakur'. There is no document with contrary entry. Apart from the documents submitted by the petitioner, the validity

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certificate in favour of his father needs to be given due consideration. It is undisputed position that claim of the petitioner's father was considered by following the due procedure, in that proper vigilance cell enquiry was conducted which becomes clear from vigilance cell enquiry report dated 28/11/2000. Based on this report, the committee has passed a reasoned order dated 08/05/2002 which mentions that the validity was subject to the decision in the matter of **Baburao Rajaram Shinde** (supra), which was pending before the division bench at that time. It has to be noted that the writ petition of **Baburao Rajaram Shinde** (supra) was finally decided by the judgment dated 03/06/2002, thereby validating the claim of Baburao. It is pointed out that this judgment was not interfered by the Hon'ble Supreme Court. As such, validity of petitioner's father Arun Ananda Thakur can no more be considered to be a conditional validity.

9. In view of the fact that the claim of petitioner's father was decided by following due procedure after vigilance cell enquiry, reliance can be placed upon this validity in view of the law laid down in **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others**, [AIR 2023 Supreme Court 1657]. Further, in view of the validity in favour of the petitioner's

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father, it will be anomalous situation if the petitioner's claim is invalidated. We are, therefore, of the view that on the basis of validity of his father, the petitioner is also entitled to have validity in his favour.

10. As regards affinity test, the position of law is no more *res-integra* that affinity test is not a litmus test and failure to establish ethnic linkage, as observed by the respondent/committee, cannot be therefore considered as a factor to deny validity.

11. On the basis of settled position of law in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti** (supra) and **Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others**, [2010 (6) Mh. L.J. 401], in view of validity in favour of petitioner's father, the instant writ petition needs to be allowed. Hence, we pass the following order :-

- (a) The impugned order dated 06/10/2006, passed by respondent No.2/scrutiny committee is quashed and set aside.
- (b) Respondent No.2/committee is directed to issue validity certificate in favour of the petitioner in the prescribed proforma.

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12. Rule is made absolute in above terms.

**(PRAFULLA S. KHUBALKAR, J.)      (MANGESH S. PATIL, J.)**

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