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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3637 OF 2012

Bhatusing Zinga Thakur and Another

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....
Mr. Anil S. Golegaonkar, Advocate for the Petitioner
Mrs. V. P. Dama, AGP for Respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, &
VAISHALI PATIL-JADHAV, J. J.]

DATE : 2nd DECEMBER, 2025

ORDER:

1. By filing this Writ Petition, under Article 226 of the Constitution of India, the Petitioners have challenged the decision of Respondent No. 2 Scrutiny Committee dated 9th October, 2011, invalidating the tribe claim of the Petitioners.
2. Before the Committee, the Petitioners had submitted various documents in support of their claim as they belong to Thakur Scheduled Tribe.
3. While rejecting the claim of the Petitioners, the Scrutiny Committee observed that, there exist certain communities which are distinct ethnic groups but having same nomenclature, one

being forward and the other being relatively backward, one being entitled to the protective discrimination while the other not being so, the only way out is to adjudicate their claim by applying affinity test and the Petitioners have failed in the affinity test. Petitioners belong to Thakur, a higher caste and not to the Thakur, Scheduled Tribe.

4. Heard learned Advocate for the Petitioners and learned AGP for the State. Perused the record made available by the learned AGP.

5. After rejection of the claim of the Petitioners by the Committee, the Committee has granted validity certificates in favour of two daughters of Petitioner No.1 - real sisters of Petitioner No.2 namely, Sheetal Bhatusing Thakur and Ashwini Bhatusing Thakur, on 15th January, 2021. Similarly, the Committee has validated claims of the first cousins of Petitioner No.1 namely Sanjaykumar Daga Thakur on 17th September, 2021 and Pradip Rajendra Thakur on 8th November, 2021. Blood relations of the Petitioners with the validity holders is not in dispute. Admittedly, validity certificates of the daughters of Petitioner No.1 - real sisters of Petitioner No.2 are granted on the basis of the same documents, on which the Petitioners have relied upon.

6. In view of the decisions in *"Anand V/s Committee for Scrutiny and Verification of Tribe Claims and Others"* 2012 (1) SCC 113 and *"Maharashtra Adiwasi Thakur Jamat Swarakshan Samity V/s State of Maharashtra and Others"* AIR 203 SC 1657, it is by now well settled that affinity test is not conclusive either way and it is not a litmus test. Therefore, the Scrutiny Committee erred in holding that the Petitioner has failed affinity test.

7. In view of the above, following order:

ORDER

- A. Writ Petition is allowed.
- B. Impugned order dated 9th October 2011 passed by Respondent No. 2 – Scrutiny Committee is hereby quashed and set aside.
- C. Respondent No. Respondent No. 2 – Scrutiny Committee is directed to issue validity certificate of "Thakur Scheduled Tribe" to the Petitioners, within 8 weeks from the date of uploading of this order.

[VAISHALI PATIL-JADHAV]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE