



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3558 OF 2007

Mahendra Murlidhar Baviskar

..Petitioner

Versus

1. The State Of Maharashtra Through The Secretary
Tribal Welfare Department, Mantralaya,
Mumbai - 32
2. The Scheduled Tribe Caste Certificate Verification
Committee, Old Agra Road, Adiwasi Bhavan, Nasik
Division, Nasik, Through Its Chairman/Director
3. The Sub Divisional Magistrate
Nasik City, Nasik
4. The Executive Engineer
M.S.E.D.C. Ltd.
Trimbak Road
Near Z.P., Patel Chamber
Nasik
5. The Superintending Engineer
M.S.E.D.C. Ltd., Vidut Bhavan
Nasik Road, Nasik

..Respondents

...

Advocate for the Petitioner : Mr. A. S. Golegaonkar
AGP for Respondent/State : Mr. A. V. Lavte

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

DATE : 10.02.2025

PER COURT :

- . We have heard both the sides and perused the papers.
2. The petitioner is challenging the judgment and order of

respondent - Scrutiny Committee dated 31.05.2007, refusing to validate his '*Thakur*' Scheduled Tribe certificate.

3. Having heard both the sides, it transpires that in fact the then committee by its order dated 22.03.2002, had allowed the petitioner's claim and had validated his tribe certificate. However, a condition was imposed stating that the validity would be subject to the final outcome of the matter of *Baburao Rajaram Shinde versus The State of Maharashtra and others reported in 2002 (4) Mh.L.J. 310* in Writ Petition No. 4123 of 1999 that was pending before the division bench of this Court.

4. The petitioner had challenged the order of the Scrutiny Committee in Writ Petition No. 7706 of 2006. It was brought to the notice of this Court that *Baburao Rajaram Shinde (Supra)* was decided by the High Court and the decision was confirmed by the Supreme Court on 28.10.2002. By the order dated 27.11.2006, this Court had directed the committee by remitting the matter back to examine if the condition can be deleted. It was also directed to consider the order of this Court in *Baburao Rajaram Shinde (Supra)* and even to consider the order of the Supreme Court dated 28.10.2002.

5. After such remittance of the matter back to the Scrutiny Committee the impugned order has been passed.

6. The reasoning assigned in the impugned order *ex facie*, demonstrates lack of understanding of the members of the committee and the limited scope for undertaking the enquiry. The aforementioned facts specifically demonstrate that it was not a general order of remand rather the petitioner was held entitled to have a certificate of validity. Since it was issued subject to the condition as mentioned hereinabove, he had preferred the writ petition. In the light of supervening events in the form of decision in the matter of ***Baburao Rajaram Shinde (Supra)***, this Court had merely expected and permitted the Scrutiny Committee to examine the aspect from the angle of deletion of the condition.

7. Without restricting itself to such limited scope after remand, the committee seems to have pondered upon and has decided the petitioner's matter afresh on all counts. In the process, without there being any jurisdiction, it examined and made certain observations to demonstrate as to how in light of subsequent decision in the matter of ***Raviprakash Babulsingh Parmar; 2004 (1) MhLJ 177 = 2004 (2) BCR 821***, the petitioner was not entitled to derive benefit from the decision in ***Baburao Rajaram Shinde (Supra)*** which was sustained up to the Supreme Court. In our considered view, the committee was oblivious of rather overlooked the direction of this Court which enabled it merely to undertake scrutiny for deletion of

the condition in the light of decision of ***Baburao Rajaram Shinde (Supra)***. Irrespective of whether the petitioner could have derived some benefit from the decision in the matter of ***Baburao Rajaram Shinde (Supra)*** and the order passed by the Supreme Court in his matter, it was not available for the committee within the realm of its jurisdiction to examine, in view of what it perceived, as the law laid down in the matter of ***Raviprakash Babul Singh Parmar (Supra)***, was contrary to the petitioner's claim. It could not have indulged in re-appreciating the entire matter on all counts and could not have decided the petition beyond the scope of merely dropping of the condition. If ***Baburao Rajaram Shinde (Supra)*** was successful in having a certificate of validity, that should have been the end of the story. For this reason alone, the order under challenge being an error within the jurisdiction but beyond the scope of the powers, in the light of the directions of this Court in the earlier round, the impugned decision is liable to be quashed and set aside.

8. Independently, as has been mentioned by the committee in its order under challenge, admittedly, the petitioner's first degree cousin possesses a certificate of validity pursuant to the order of this Court in Writ Petition No. 2574 of 1998. Though the committee has expressed that the decision will not be sustainable in light of the decision in the matter of ***Sunil Murlidhar Thakur and Another v/s.***

The State of Maharashtra and Another in WP No. 2878 of 2022, dated 28.11.2023, again the committee has exceeded the jurisdiction in taking exception to the validity of the petitioner's cousin.

9. In the light of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others; 2023(2) Mh.L.J.785* since admittedly, petitioner's cousin was granted certificate of validity by following due process of law, even for this reason, the impugned order cannot sustain.

10. The writ petition is allowed.

11. The impugned order is quashed and set aside.

12. It is held that the petitioner is entitled to have a certificate of validity of 'Thakur' Schedule Tribe. The committee shall issue it immediately.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)

jhs/