

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

**WRIT PETITION NO. 8554 OF 2018
WITH
CIVIL APPLICATION NO. 2759 OF 2021
IN WP/8554/2018**

**VIDYA RAMKRISHNA GARUD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioner : Mr. Yeramwar Sushant C.
Addl. GP for Respondents : Mrs. Dr. Kalpalata Patil-Bharaswadkar
...

**CORAM : R. G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.**

DATE : 08.09.2025

PER COURT :

. Heard.

2. The petitioner claims to have belonged to 'Thakur' Scheduled Tribe. His tribe certificate was subjected to scrutiny. Respondent no. 2 - Scrutiny Committee refused to grant validity certificate. The petitioner is, therefore, before us.

3. The petitioner mainly relies on validity certificate granted in favour of his real brother Gopal, cousin uncles namely Harihar Ram and Nivrutti. According to the learned Advocate for the petitioner, even there are no contra entries. He would further submit that when the validity certificates to the aforesaid relations, have been granted by this Court, how the Scrutiny Committee could dare to reopen the case of Sachin. According to him, since the real brother of the petitioner has been granted validity and his case has not been even proposed to

reopen, the petitioner is entitled for grant of validity certificate.

4. Learned AGP would on the other hand submit that in the case of Gopal an affidavit was filed by Gitanjali giving the genealogy of one Bapusaheb and his two sons Dnyanoba and Tukaram. Our attention has also been adverted to the affidavit filed by Gopal and Nivrutti in the proceedings of Vidya Ramkrushna Garud. In those affidavits the concerned affiants have not claimed any relationship with the forefather of the petitioner herein. Learned AGP meant to say that had there been blood relationship between the petitioner and those persons the same could have been reflected in those affidavits. According to her, each case has to be decided on its own merits. The Scrutiny Committee has rightly relied on the Apex Court's judgment in the case of **Raju Ramsing Vasave Versus Mahesh Deorao Bhivapurkar and Others, 2008 (9) SSC 54**. According to her, case of Sachin has now been reopened by Scrutiny Committee and, therefore, if the Court is inclined to grant the petition, the validity certificate to be issued shall be conditional and co-terminus with the validity certificate granted in favour of Sachin and others on which the petitioner has placed reliance.

5. We have considered the submissions advanced. The Scrutiny Committee in the order impugned herein has observed thus :

"अर्जदारांनी परिच्छेद १ मधील अ. क्र. IV, XIII, XIV वर नमुद केल्याप्रमाणे अनुक्रमे श्री. गोपाल रामकृष्ण गरुड - सख्खा भाऊ, श्री. सचिन हरिहरराव गरुड - चुलत काका यांचे वैधता प्रमाणपत्र व श्री. निवृत्ती तुकाराम गरुड - चुलत काका यांचा जमाती दावा वैध असले बाबत मा. उच्च न्यायालयाने दिलेल्या न्यायनिर्णयाची प्रत सादर केली आहे. मात्र प्रत्येक प्रकरण हे स्वतःच्या गुणवत्तेवर तपासले जावे असे अभिमत मा. सर्वोच्च न्यायालयाने राजू रामसिंग

वसावे विरुद्ध महेश देवराव भिवापूरकर [2008(vol)9-Slc 54] प्रकरणी न्याय निवाडा करताना नोंदविलेले आहे. तसेच मा. उच्च न्यायालयाने याचिका क्र. २७७३/१९९० श्री. धर्मेन्द्र देवराव पाटील विरुद्ध अनुसूचित जमाती तपासणी समिती [2004(1)ALLMR.512] मध्ये न्याय निवाडा करतांना या मुद्या बाबत खालील प्रमाणे अभिमत नोंदविलेले आहे :-”

6. Those observations have been made by the Scrutiny Committee with a view not to rely on the validity certificates issued in favour of real brother and cousin uncles of the petitioner.

7. We fail to understand as to how could the Scrutiny Committee make such observations, more so when the validity certificates have been directed to be issued vide order passed by this Court in Writ Petition No. 502/1994. The Committee itself did not dispute the relationship between the petitioner and his real brother Gopal and cousin uncles Sachin and Nivrutti. It is true that the affidavits filed by Gopal, Vidya and Nivrutti, a detail family tree has not been given in the respective cases before the Scrutiny Committee. However, it is not that those applicants have in so many words disowned any relationship with the validity holders and their forefathers. The reliance on those affidavits would therefore be of little consequence for the learned AGP. In the case in hand the oldest entry pertain to school record of the petitioner's grandfather Dnyaneshwar Baburao Garud. The school record is for the year 1939 wherein his tribe is shown as 'Thakur'. It needs no mention that 'Thakur's have been considered to have belonged to Scheduled Tribe. The said entry is of pre-constitutional era and, therefore, carries much presumptive value.

8. We are not at one with the submission made by the learned AGP that the validity certificate if any to be granted by this Court to the petitioner herein shall be conditional, since the State has not challenged the orders passed by this Court directing to grant validity certificates to the petitioner's real brother and cousin uncles Sachin and Nivrutti. All in all, based on the said material before the Scrutiny Committee, it ought to have granted the petitioner validity certificate. Since the same have not been granted, the interference with the order impugned herein is warranted.

9. In view of the above, the petition deserves to be allowed in terms of following order :

ORDER

- i. The petition is allowed.
- ii. The order impugned herein is hereby set aside.
- iii. Respondent no. 2 - Scrutiny Committee shall issue the petitioner validity certificate of the Scheduled Tribe 'Thakur'.
- iv. Interim application, if any, stands disposed of.

(ABASAHEB D. SHINDE, J.)

(R. G. AVACHAT, J.)