



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

CIVIL APPLICATION NO. 10858 OF 2024
IN REVIEW APPLICATION STAMP NO. 23840 OF 2024
IN WRIT PETITION NO. 7532 OF 2023.

1. Adivasi Nokarvarg Thakur and
Thakar Samaj Utkarsha Sanstha
Maharashtra Through Kantaram
Narayan Khadavi (Secretary)
At Valhivare, Po. Moroshil, Tal. Murbad,
District Thane 421401.
2. Bebibai Kutwal Pawara
Age : 39 Years, Occu.Household/Elected Member
R/o. Malkhan Nagar, Post Hisale,
Tq. Shirpur, District Dhule. STAMP

Versus

1. State of Maharashtra through Secretary,
Department of Tribal Development,
Mantralaya, Mumbai 400032
2. Scheduled Tribe Certificate Scrutiny Committee,
Dhule Division, Dhule,Tq. And District Dhule
through its member secretary.
3. Yugandhara Narendra Mahale,
Age : 22 years, Occ.Education,
R/o. Amalthe, Tq.Sindkheda,
District Dhule presently residing
at Plot No.115, Vighnaharta Colony,
Devpur, Dist.Dhule.

WITH
CIVIL APPLICATION NO. 11634 OF 2024
IN REVIEW APPLICATION STAMP NO. 23836 OF 2024
IN WRIT PETITION NO. 10177 OF 2022.

1. Adivasi Nokarvarg Thakur and
Thakar Samaj Utkarsha Sanstha
Maharashtra Through Kantaram
Narayan Khadavi (Secretary)
At Valhivare, Po. Moroshil, Tal. Murbad,
District Thane 421401.
- 1
2. Bebibai Kutwal Pawara
Age : 39 Years, Occu.Household/Elected Member
R/o. Malkhan Nagar, Post Hisale,
Tq. Shirpur, District Dhule.

Versus

1. State of Maharashtra through Secretary,
Department of Tribal Development,
Mantralaya, Mumbai 400032
2. Scheduled Tribe Certificate Scrutiny Committee,
Dhule Division, Dhule,Tq. And District Dhule
through its member secretary.
3. Vishvajit Narendra Mahale,
Age : Major, Occ.Education,
R/o. Amalthe, Tq.Sindkheda,
District Dhule presently residing
at Plot No.115, Vighnaharta Colony,
Devpur, Dist.Dhule.

* Mr. S.B.Deshpande Senior Advocate a/w. Mr. Shreyas Deshpande, Mr. Chetan Choudhary, i/by. Mr. Bhagatsingh Padvi. Mr.Pratap Patil, Miss Priyanka Deshpande, advocate for applicants in both matters.

* Mr. V.M.Kagne, AGP for Respondent/State.

* Mr. Mahesh Deshmukh a/w. Mr. Umesh Gite, Advocates for Respondent No.3 in both matters.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ..**

RESERVED ON : 23rd JANUARY 2025

PRONOUNCED ON : 27th FEBRUARY 2025

J U D G M E N T (Per Shailesh P. Brahme, J.) :

1. Heard both sides.
2. The applicants are soliciting the review of judgment and order dated 13.07.2023 passed in Writ Petition No. 7532 of 2023 and judgment and order dated 27.07.2023 passed in Writ Petition No. 10177 of 2022. There is a delay of 382 days which is sought to be condoned by preferring separate applications. The review and applications for condonation of delay are emanating from the matters of the siblings having common record. Hence, we have heard both the applications together and propose to dispose of those by this common order.

3. The applicants filed Review applications on 28.08.2024. It is contended by them that the respondent no.3/claimants had suppressed material information from Court while soliciting the certificates. They have played fraud on the Constitution. The delay was caused because the applicants learnt about fraud on or about 30.07.2024 during the course of hearing of Jitendra Mahale in reverification proceedings. It is contended that applicants learnt about validity certificates lastly on 30.07.2024. Under these circumstances, the delay is sought to be condoned.

4. Simultaneously, we permitted the applicants to address on merits of review applications also. Learned senior counsel Mr. Deshpande submitted that applicant no. 1 is registered under Maharashtra Public Trusts Act, 1950 and applicant no. 2 is a member of Scheduled Tribe and elected member of Zilla Parishad. They are the original complainants. They are espousing the cause for preventing the fraud on the Constitution and misuse of caste/tribe claim. As the respondent no. 3 obtained validity certificate fraudulently and on bogus record they have a cause to approach this Court. He would submit that hyper technical approach in rejecting the applications on *locus standi* or maintainability may not be adopted.

5. It is vehemently submitted that applicants have not personal grudge against the respondent no.3. Their bona-fides need to be taken into account. They are the aggrieved persons. Writ court should adopt liberal approach and the matters need to be reheard on merits. They have sufficient interest and locus to prosecute the matter. It is further submitted that it is a matter of social status and the applicants are protecting interests of genuine tribal people. Applicant no. 1 even had opportunity to address before the Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and others** reported in 2023 SCC Online SC 326. and **Shilpa Vishnu Thakur Vs. State of Maharashtra and Others** reported in 2009(3) Mh.L.J 995.

6. Learned Senior counsel for the applicants relied on following judgments :

- i) **Union of India (UOI) vs. Nareshkumar Badrikumar Jagad and Ors.** reported in (2019) MLJ 198
- ii) **Ayaaubkhan Noorkhan Pathan vs. The State of Maharashtra and Ors.** reported in AIR2013 SC58
- iii) **The Queen vs. The Greater London Council** in reported in [1976]

All ER 184

iv) **Bangalore Medical Trust vs. B.S.Muddappa and Ors.** reported in AIR 1991 SC 1902

v) **Gaurav vs. The State of Maharashtra and Ors.** of this Court in Writ Petition No. 9778 of 2021

vi) **D.C.Wadhwa and Ors. vs. State of Bihar and Ors.** reported in AIR 1987 SC 579

7. Per contra, learned counsel Mr. Deshmukh strenuously objected on the maintainability of the applications and the locus of the applicants. He submitted that false reasons have been assigned for condonation of delay and for that purpose our attention is adverted to the reply filed in the application for condonation of delay. It is submitted that applicants were aware of the judgment sought to be reviewed on 06.11.2023 during the proceeding of re-verification in the matter of Jitendra Yuvraj Mahale. Reliance is placed on complaints filed by the applicants and *Roznama* in that matter. In view of suppression of material facts and falsehood, the application for condonation of delay is prayed to be rejected.

8. Learned counsel Mr. Deshmukh submitted that no complaint was filed by the applicants under Section 19 of the above Act. Neither

was there any application filed for intervention in the writ petitions. The applicants are selective and they had a personal grudge against respondent no.3. It is further submitted that respondent no.3 was granted validity predominantly relying on the judgment of this Court in the matter of **Vaibhav Subhash Thakur vs. The State of Maharashtra and Others** in Writ Petition No. 5940 of 2008 which was confirmed by the Supreme Court. There are no grounds to entertain review applications on merit. Reliance is placed on the judgment passed in Adivasi Nokarvargh Thakur and Thakar Samaj Utkarsha Sanstha, to show previous conduct of applicant no.1 as well as order passed in **Sayed Moinoddin Sayed Sayfoddin Inamdar vs. The State of Maharashtra and Ors.** in Writ Petition No. 7527 of 2011.

9. There is delay of 382 days in preferring the review applications in both the matters. The applicants claim ignorance of judgment and orders passed which are sought to be reviewed, till 30.07.2024 during hearing. This contention is refuted by the respondents by placing on record Roznama and papers submitted in re-verification proceedings. Both the applicants were party in the re-verification proceedings, being complainants. Jitendra Mahale had filed say, given points of submissions and more specifically in paragraph nos. 4 and 14 reliance

was placed specifically on the orders passed by the High Court which are sought to be reviewed. Averments in paragraph nos.4 and 14 are extracted below :

सदर आदेशाविरुद्ध युगंधरा नरेंद्र महाले व विश्वजीत नरेंद्र महाले यांनी मा. मुंबई उच्च न्यायालय सौ. खंडपीठ औरंगाबाद येथे रिट याचिका क्रं. ७५३२/२०२३ व १०९७७/२०२२ दाखल करून समितीचे आदेश आव्हानीत केलेले होते. सदर रिट याचिकेमध्ये मा. उच्च न्यायालय सौ. यांनी दि. १३/०७/२०२३ रोजी व २२/०७/२०२३ आदेश पारित करून पडताळणी समितीचा आदेश संपूर्ण मुद्यांसह खारीज (Set-Aside) करून निर्पेक्ष वैधता प्रमाणपत्र निर्गमित करण्याबाबत आदेशीत केलेले आहे. त्यामुळे अर्जदारांना दिलेली नोटीस व त्यातील दावा विरोधी केलेले कथन प्रथम दर्शनीच रद्द होण्यास पात्र आहे व सदर अर्जदारांना तत्कालीन पडताळणी समितीने निर्गमित केलेले वैधता प्रमाणपत्र हे योग्य, खरे व न्यायोचित असल्याचे असे जाहिर करण्यात यावे. आणि तसेच सदर अर्जदारांनी कुठलेही दाव्याविरोधी पुरावे न लपवता सत्य परिस्थितीच्या / वस्तुस्थितीच्या आधारेच वैधता प्रमाणपत्र प्राप्त केले आहे असे देखील जाहिर करण्यात यावे. तसे न झाल्यास मा. उच्च न्यायालय सौ. यांनी रिट याचिका क्रं. ७५३२/२०२३ व १०९७७/२०२२ मधील आदेशाचा अवमान होईल याची दखल घेणे न्यायाच्या दृष्टिने आवश्यक व बंधनकारक आहे.

14. प्रस्तुत खुलाशाच्या अनुषंगाने वर नमूद कथनाचा, तत्कालीन पडताळणी समक्ष आमच्या प्रकरणासोबत व आमच्या इतर रक्तातेवाईकांच्या प्रकरणात दाखल केलेल्या सन १९९० पासूनच्या आमच्या दाव्यास पुष्टी देणाऱ्या सबळ अश्या पुराव्यांचा व तसेच युगंधरा नरेंद्र महाले व विश्वजीत नरेंद्र महाले यांनी मा. मुंबई उच्च न्यायालय सौ. खंडपीठ औरंगाबाद येथे रिट याचिका क्रं. ७५३२/२०२३ व १०९७७/२०२२ मध्ये समितीचा आदेश रद्द करून वैधता प्रमाणपत्र निर्गमित करण्याबाबत दिलेल्या आदेशाचा (EQUITY) या न्याय तत्वांच्या आधारे व तसेच वर नमूद संदर्भीय वरिष्ठ न्यायालयांच्या मार्गदर्शक तत्वांचा व निवाड्यांचा विचार करून सदर करणे दाखवा नोटिसीतील नमुद केल्याप्रमाणे अर्जदारांना निर्गमित केलेले वैधता प्रमाणपत्र पुनर्विलोकन करून रद्द करण्यात येऊ नये. आणि अर्जदारांचे वैधता प्रमाणपत्र हे योग्य व न्यायोचित असल्याचे जाहिर करण्यात यावे ही विनंती.

10. Roznama of the proceedings indicates that on 06.11.2023 reply was filed by Jitendra. Applicant No. 2 and advocate for applicant no. 1 were present. Roznama bears their acknowledgment of having received a copy of the say. There is no iota of doubt that on 06.11.2023 itself both the applicants were having material particulars of the decisions which are sought to be reviewed. Therefore their

statements on oath that they learnt about orders under review on 30.07.2024 or lastly on 30.07.2024 are palpably false.

11. The applicants filed review application on 28.08.2024 under the pretext that they learnt about orders sought to be reviewed on 30.07.2024. They have suppressed that on 06.11.2023 itself both the orders were brought to their notice. The delay from 06.11.2023 to 28.08.2024 has not been explained in the applications. Both the applicants have tried to mislead the court. They are not bona-fides. We are not inclined to condone the delay for the dishonest conduct of the applicants.

12. Normally, we would be lenient in the matters of condonation of delay. But in the present matter, the applicants were neither party before the scrutiny committee nor before us in writ petitions. They are coming with a specious plea of having espousing cause of genuine tribal people and to prevent fraud on the Constitution. If that is so, they could have filed application for intervention in the writ petitions. Apparently, their locus is shrouded with doubt that reflects on their bona-fides. Hence, we are not inclined to condone the delay.

13. Even independently, we see no reason to entertain applications for review. The tribe claim of respondent no. 3 was allowed by our orders which is individual centric claim for the social status. The applicants are unable to exhibit their interests in the individual centric claim. Just because in some erstwhile proceedings applicant no. 1 was permitted to address before Supreme Court cannot be a ground to maintain applications for review. It has been repeatedly emphasized by learned senior counsel for the applicants that their object is to prevent fraud on the Constitution and to expose the fraudsters. He has referred various judgments so as to adopt liberal approach for entertaining the applications. Interestingly, in the judgments referred to by him concerned courts were not exercising review jurisdiction. There is a fundamental difference in locus of third person in review jurisdiction and their locus in writ jurisdiction under Articles 226 or 227 of the Constitution of India.

14. We cannot be oblivious of inherent limitations in exercising review jurisdiction. Review is not an appeal in disguise. Reappreciation of material is impermissible. Fishing inquiry to find out the grounds of review is also not permissible. By a reasoned order, when we have already taken a view in granting validity to respondent no. 3, just

because some other view is possible, review cannot be entertained. In this backdrop we propose to deal with the judgments cited by learned senior counsel.

15. Learned senior counsel Mr. Deshpande has placed reliance on decision of English Court, in the matter of **The Queen vs. The Greater London Council** reported in [1976] All ER 184, to make out that applicants have *locus standi* by referring to point no. 5. In that case a Mr. Blackberry had approached the court against exhibition of pornographic film. It was alleged that a public authority was guilty of misuse of power. His wife was a tax payer and he had children. In that backdrop it was held that he had locus standi. The case in hand is totally on different facts. The social status of respondent no. 3 is at stake.

16. Reliance is also placed on the judgment of the Supreme Court in the matter of **D.C.Wadhwa and Ors. vs. State of Bihar and Ors.** (supra) to show the locus standi. In that case, four petitioners had challenged validity of promulgation and repromulgation of the ordinances by the governor. First petitioner was a professor of economics, second petitioner was an occupant of rayat land, growing

forest produce, third was a student and the fourth was a brick manufacturer. They were concerned with the ordinances concerned, therefore their petitions were entertained. Petitioners were held to have sufficient interest to maintain action to redress grievance against public injury arising from breach of public duty. The case in hand is distinguishable on facts and the ratio laid down is not applicable to the present case.

17. Mr.Deshpande further relied on judgment of the Supreme Court in the matter of **Bangalore Medical Trust vs. B.S.Muddappa and Ors.** (supra). In that case appellant/Medical trust was allotted an open space for constructing a hospital. It was actually reserved for public park and play ground. The allotment was challenged by the respondents who were residents of locality. Being aggrieved as a member of general public and resident of that locality writ petition was entertained. The ratio laid down in paragraph no. 36 of the judgment cannot apply to the present case.

18. He has also relied on the judgment of **Ayaaubkhan Noorkhan Pathan vs. The State of Maharashtra and Ors.** (supra) and more particularly on following paragraph.

22. Thus, from the above it is evident that under ordinary circumstances, a third person, having no concern with the case at hand, cannot claim to have any locus-standi to raise any grievance whatsoever. However, in the exceptional circumstances as referred to above, if the actual persons aggrieved, because of ignorance, illiteracy, in articulation or poverty, are unable to approach the court, and a person, who has no personal agenda, or object, in relation to which, he can grind his own axe, approaches the court, then the court may examine the issue and in exceptional circumstances, even if his bonafides are doubted, but the issue raised by him, in the opinion of the court, requires consideration, the court may proceed suo-motu, in such respect.

In above case validity certificate issued to the appellant by the committee was challenged by filing complaint belatedly for recalling the validity. The committee rejected the application. Being aggrieved, respondent no. 5 had filed writ petition before High Court. It was dismissed without going into the merits. In paragraph nos. 7,16 and 17 of the judgment Supreme Court observed regarding enforceable legal right and the remedy to the aggrieved person. However, in present case we are exercising review jurisdiction. In the present case it is not that actual persons aggrieved because of ignorance or illiteracy or poverty are unable to approach the court. The applicants had neither approached committee nor the High Court by filing any complaint or a petition. Hence, the ratio laid down is not helpful to the applicants.

19. Applicants have also referred to judgment of the Supreme Court in the matter of **Union of India (UOI) vs. Nareshkumar Badrikumar Jagad and Ors.** (supra). We have gone through paragraph no. 19 of the judgment. The matter before the Supreme Court was of review petition which was regulated by Article 137 of the Constitution of India as well as rules framed by the the Supreme Court to govern the review petitions. Considering those provisions, it was held that third party, if aggrieved may take recourse to the remedy of review provision. We do not enjoy that privilege or right to entertain review at the instance of a third person. There is a difference between the jurisdiction exercisable by the Supreme Court in review petitions and jurisdiction of a High Court in considering review petitions. The ratio is not applicable to the applications.

20. Lastly, reliance is placed on the judgment of this Court in the matter of **Gaurav vs. The State of Maharashtra and Ors.** in Writ Petition No. 9778 of 2021. In that case the coordinate bench relied on the judgment of **Ayaaubbkhan Noorkhan Pathan** (supra). We have already recorded that ratio laid down in **Ayaaubbkhan Noorkhan Pathan** is not applicable. Hence, this judgment is of no assistance to

the applicants.

21. Respondents have relied on the judgment of coordinate bench of this court in the matter of **Sayed Moinoddin Sayed Sayfoddin Inamdar** (supra) wherein the validity issued to respondent no. 3 therein was challenged by filing writ petition in the High Court. It was dismissed by imposing cost of Rs.25,000/- (Twenty Five Thousand) holding that petitioner had no *locus standi*. In that case reliance was placed on the judgment of Apex Court in the matter of **Ayaaubkhan Noorkhan Pathan vs. The State of Maharashtra and Ors.** reported in AIR 2013 SC 58. Learned counsel for the respondents submits that same course needs to be followed in the present matter. We have already recorded findings against appellants.

22. He has relied on judgment of coordinate bench of this court in the matter of **Adiwasi Nokarvarg Thakur Wa Thaka Samaj Utkarsha Sanstha vs. The State of Maharashtra and Others** in Writ Petition No. 3266 of 2021. Interestingly, applicant no. 1 was the petitioner and it was challenging validity issued to respondent no. 3 therein and his family members. The petition was objected for want of locus. Writ Petition was dismissed with cost of Rs.10000/- (Rupees Ten Thousand). This shows that applicant no. 1 has been indulging in the proceedings

raising objections to the members of *Thakur* community. We have already recorded findings expressing our reservations on the ground of bona-fides of applicant no. 1. It is substantiated by the above order.

23. Applications for condonation of delay as well as review applications in both the matters are rejected. There shall be no order as to costs.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S.PATIL]
JUDGE

vsj..