



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

WRIT PETITION NO. 12878 OF 2024

Sunil Chandrakant Shinde .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 13393 OF 2024**

Sudhir Suryakant Shinde .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Chintamani K. Bhangoji, Advocate for the Petitioner in both petitions.

Shri S. R. Yadav Lonikar, A.G.P. for the Respondent Nos. 1 and 2 in both matters.

Shri Gajanan N. Tirthwar, Advocate h/f shri D. S. Bagul, Advocate for the Respondent No. 3 in W. P. No. 12878 of 2024.

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.
DATE : 04TH FEBRUARY, 2025.**

ORDER :

. Both petitions emanate from common judgment and order passed by the Scrutiny Committee on 11th November, 2024 invalidating their tribe certificates of scheduled tribe 'Thakar'. The record is common, therefore, we propose to decide both petitions by this common order.

2. The petitioners are relying on validity certificates of the following blood relatives, which are figuring in the genealogy, which is produced at page No. 148 of the paper book of Writ Petition No. 12878 of 2024.

Sr. No.	Name of validity holder	Relation with the Petitioner	Validity granted by	Date of issue
1.	Dipak Laxman Shinde	Cousin brother	High Court in W. P. No. 3800 of 2013	29.08.2013
2.	Sandip Laxman Shinde	Cousin brother	High Court in W. P. No. 3798 of 2013	29.08.2013
3.	Suryakant Murlidhar Shinde	Real uncle	Scrutiny committee	03.12.2007
4.	Sachin Prakash Shinde	Cousin brother	Scrutiny committee	28.09.2011
5.	Amol Kundlik Shinde	Cousin brother	Scrutiny committee	20.09.2005
6.	Sharad Kundlik Shinde	Cousin brother	Scrutiny committee	29.09.2005

3. Besides above validities, the petitioners are also relying on the school record of Suryakant Murlidhar Shinde of 1964, 1965 and 1969. Learned counsel for the petitioners submits that the validities were issued after following due procedure of law. In view of the judgment of 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*, the petitioners deserve to receive validities. He would further submit that Dipak Laxman Shinde and Sandip Laxman Shinde were

issued with the validity certificates by common judgment and order dated 29th August, 2023 by the Principal Seat at Bombay in Writ Petition No. 3800 of 2023 and Writ Petition No. 3798 of 2013. They were issued with unconditional validities. He would further submit that relationship of the petitioners with the validity holders has not been disputed. There is no incompatible record. Under these circumstances, the Scrutiny Committee committed perversity in rejecting the tribe claims of the petitioners.

4. The learned counsel for the petitioners relies on the judgment of this Court dated 12.12.2022 in the matter of Prasad Ratnakar Katole Vs. The Scheduled Tribe Caste Certificate Scrutiny Committee and others in Writ Petition No. 293 of 2022 and judgment dated 12.04.2013 in the matter of Ms. Pratibha Gorakhnath Nikumbh Vs. The State of Maharashtra and another in Writ Petition No. 7569 of 2008..

5. Per contra, learned Assistant Government Pleader supports the impugned judgment and order. He would submit that the scrutiny committee has arrived at the plausible conclusion after considering entire record. The committee is justified in discarding the validity certificates as those were obtained by suppression of material facts. The entries of Ramesh Mohanrao Shinde and Kavita Gangadhar Shinde are incompatible to the tribe claims. He would further submit that the petitioners did not with-stand affinity test. It is further

submitted that the tribe certificates of Dipak Laxman Shinde and Sandip Laxman Shinde were issued by the competent authority in Thane district and their claims were invalidated by the Thane Committee. There was no occasion for the Division Bench to examine the record and proceedings of the Aurangabad committee. Therefore, judgment would not enure to the benefit of the petitioners.

6. We have considered rival submissions of the parties. There is no dispute that the validity certificates have been issued to the paternal side blood relations of the petitioners, who are figuring in the genealogy which is at page No. 148. The relationship of the petitioners with the validity holders has not been disputed. Out of them Sandip Laxman Shinde and Dipak Laxman Shinde were issued with the validity certificates by common judgment dated 29th August, 2024 passed in Writ Petition No. 3800 of 2023 and Writ Petition No. 3798 of 2013. It was a reasoned order banking on the validities issued by the Committee to Sachin Prakash Shinde, Amol Kundalik Shinde and Sharad Kundalik Shinde. We propose to adopt the same course and reasons.

7. There are number of validity holders in the family of the petitioners. Unless earlier validity certificates are revoked, the petitioners cannot be deprived of same social status. They deserve validity certificates on parity.

8. The Committee has discarded the validity certificates only

by referring to validity of Sachin Prakash Shinde. It is incomprehensible as to why the validities of other blood relatives which were before the Committee were not considered and the scrutiny to that effect was not conducted by the Committee. The reasons assigned for discarding validity of Sachin Prakash Shinde are totally unsustainable. We find that entries of Ramesh Mohanrao Shinde and Kavita Gangadhar Shinde cannot be said to be incompatible to the tribe claims of the petitioners. Neither Hindu, nor Marathi Thakar can be said to be contrary entries. Hindu is the religion and so far as Marathi Thakar is concerned, the learned counsel for the petitioners has rightly referred to the judgment in the matter of Prasad Ratnakar Katole Vs. The Scheduled Tribe Caste Certificate Scrutiny Committee and others (supra) and especially paragraph No. 7.

9. The Apex Court has already ruled that affinity test is not a decisive factor and it is not litmus test. Therefore, though the petitioners could not get through affinity test that would not operate against them. The findings recorded by the scrutiny committee discarding the record and the validities are unsustainable.

10. As we have decided to cause our indulgence in the impugned judgment and order, the consequential termination of the petitioner/Sunil Chandrakant Shinde is also unsustainable. We, therefore, pass following order.

ORDER

(I) The writ petitions are partly allowed.

(II) The common judgment and order dated 11th November, 2024 passed by the respondent No. 2/Scrutiny Committee is quashed and set aside.

(III) The respondent No. 2/Scrutiny Committee shall forthwith issue tribe validity certificates to the petitioners as belonging to 'Thakar' scheduled tribe.

(IV) The termination order dated 27th November, 2024 passed in the case of petitioner Sunil Chandrakant Shinde is quashed and set aside.

[SHAILESH P. BRAHME J.]

[S. G. MEHARE, J.]

bsb/Feb. 25