

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 18841 OF 2024**

Smt. Shilpa Jay Wagh)
 @ Kum. Pushpa Panduranga Thakur)
 Age 49 years, Occ. : Service,)
 residing at B-5, Vanaraj Regency,)
 Shahu Chowk, Behind Sarang Build.)
 Peth Road, Panchavati, Dist. Nashik.) ...Petitioner

Versus

1. **State of Maharashtra**)
 Through its Secretary, Tribal)
 Development Department,)
 Mantralaya, Mumbai-400032.)
2. **Scheduled Tribe Certificate Scrutiny)
 Committee, Nashik Division, Nashik)**
 Through its Member Secretary,)
 having its office at Adivashi Vikash)
 Bhavan, Old Agra Road, Nashik,)
 Dist. Nashik.
3. **Nashik Municipal Corporation**)
 Through its Commissioner having)
 Its office at Nashik, Dist. Nashik.) ...Respondents

 Adv. R.K. Mendadkar, for the Petitioner.

Adv. Kavita N. Solunke, AGP a/w Adv. S.H. Kankal, AGP, for
 State/Respondent.

**CORAM : R. I. CHAGLA AND
 ADVAIT M. SETHNA, JJ.**

**JUDGMENT RESERVED ON : 9 FEBRUARY 2026
 JUDGMENT PRONOUNCED ON : 17 FEBRUARY 2026**

JUDGMENT (Per Advait M. Sethna, J.):

1. Rule. The Rule is made returnable forthwith with the consent of the parties.
2. This petition is filed under Article 226 of the Constitution of India praying for the following substantive relief :-

“(a) This Hon’ble Court be pleased to issue Writ of Certiorari and/or any other Writ, Order or Direction in the nature of Certiorari thereby quashing and setting aside the impugned common judgment and order dated 8.11.2024 passed by the respondent no. 2 committee with further direction to issue certificate of validity in favour of the petitioner, in the light of caste validity certificate granted to her real brother in accordance with law by the respondent no. 2 committee itself.”

3. The petitioner is primarily aggrieved by, and has accordingly assailed, the order dated 8 November 2024 passed by Respondent No. 2 – the Scheduled Tribe Certificate Scrutiny Committee, Nashik Division, Nashik (“**Impugned Order**” for short).

FACTUAL MATRIX:-

4. The Petitioner was granted a caste certificate by the competent authority on 2 July 1991 certifying her as belonging to Thakur – Scheduled Tribe. On the basis of the said certificate, the Petitioner came to be appointed as a Junior Clerk with Respondent No. 3 – Nashik Municipal Corporation on 21 December 1999. She has since been discharging her

duties and continues in service.

5. On 5 December 2011, Respondent No. 3 referred the Petitioner's caste certificate for verification to Respondent No. 2 – Committee along with relevant documents, including the certificate of validity of her real brother. Thereafter, Respondent No. 2 - Committee invalidated the caste claim of the Petitioner by an order dated 5 July 2019, principally on the ground that she had failed to establish socio-cultural affinity with the Thakur Scheduled Tribe.

6. The Petitioner challenged the said order dated 5 July 2019 passed by the Respondent No. 2 – Committee, by filing Writ Petition No. 8036 of 2019 before this Court. By judgment dated 24 January 2024, this Court allowed the said Writ Petition in light of the decision of the Larger Bench of the Supreme Court in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti v. State of Maharashtra & Ors*¹, and remanded the matter back to the Respondent No. 2 – Committee for reconsideration of the Petitioner's caste claim in accordance with the law laid down therein and after taking into account the entire material on record.

7. Pursuant to the remand, Respondent No. 2 - Committee once again referred the matter to its Vigilance Cell for further inquiry. However, by Impugned Order dated 8 November 2024, the Respondent No. 2 – Committee, again invalidated the claim of the Petitioner as stated to be

1. Civil Appeal No. 2502 of 2022; decided on 24 March 2023.

belonging to the Thakur Scheduled Tribe. Thus, the Petitioner has filed the present Writ Petition before this Court challenging the Impugned Order.

RIVAL CONTENTIONS:

A) SUBMISSION ON BEHALF OF THE PETITIONER:

8. The primary contention advanced by Mr. Mendadkar, learned counsel appearing for the Petitioner, is that the Petitioner's biological brother, namely Harshal Punjaram Ahire, has been issued a caste validity certificate in the year 2001 recognizing him as belonging to the Thakur Scheduled Tribe. A copy of the said certificate is annexed to the Petition as Exhibit "D". The issuance of the said certificate in favour of the Petitioner's brother is not in dispute.

9. Mr. Mendadkar has laid emphasis on the judgment of the Supreme Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (Supra)*. This is to contend that, the Supreme Court dealt with similar situation pertaining to the Thakur Scheduled Tribe category, as spelt out, more particularly in paragraphs 21, 22 and 23. The Supreme Court held that where a Vigilance Cell inquiry has already been conducted in the case of a blood relative of the Petitioner from the paternal side and a validity certificate has been granted, it is not necessary to conduct a separate Vigilance Cell inquiry in each individual case. However, if no such Vigilance Cell inquiry has been conducted in the case of any blood relative from the paternal side, it would be open to the Committee to cause a Vigilance Cell

inquiry and consider the case independently.

10. Mr. Mendadkar has also relied on the Division Bench decision of this Court in *Sanjay s/o Krushna Thakur & Anr. vs The State of Maharashtra & Ors.*², wherein the Division Bench of this Court has duly considered the law laid down by the Supreme Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (Supra)*.

11. Mr. Mendadkar has then placed reliance on the decision of this Court (same Bench) in *Santosh Baban Thakur (Rajwade) & Ors. v. State of Maharashtra*³ dated 9 February 2026. He submits that an identical issue arose for consideration in the said case. Therefore, according to Mr. Mendadkar, the said decision would govern the case of the present Petitioner.

12. For all the above reasons, he would urge that the petition be allowed.

B) SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

13. Per contra, the learned AGP appearing for Respondents submits that the Impugned Order has been passed after due consideration of the entire material placed on record, coupled with the case put forth by the Petitioner.

14. The learned AGP would submit that the Impugned Order refers to the decision of the Supreme Court in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (Supra)* as well as the fact that the Petitioner's brother

2. Writ Petition No. 13994 of 2024, dated 14 October 2024

3. Writ Petition No. 12052 of 2023, dated 9 February 2026.

having been issued a caste validity certificate for the “Thakur” Scheduled Tribe. However, the said certificate cannot be treated as conclusive in the given facts.

15. Learned AGP would contend that serious doubts have arisen regarding the genuineness of Petitioner’s brother’s validity certificate, inasmuch as show cause notices have been issued to the brother of the Petitioner, proposing appropriate action. In such circumstances, the Respondent No. 2 - Committee was justified in not extending the same benefits to the Petitioner.

16. Learned AGP would urge that in view of the show cause notice being issued and such proceedings being initiated, the Impugned Order would warrant no interference, much less reversal from this Court.

17. For all of the above reasons learned AGP would urge that the petition be dismissed.

ANALYSIS & CONCLUSION :

18. We have heard learned counsel for the parties and with their assistance, perused the record.

19. It is undisputed that a Caste Validity Certificate for the “Thakur” Scheduled Tribe was issued to the Petitioner’s biological brother in the year 2001. A copy of the said certificate forms part of the present Petition. It is on such basis that the Petitioner would contend that the Impugned Order

invalidating the Petitioner's claim is bad in law.

20. Contextually, we have perused the judgment of the Supreme Court in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)***, and duly noted the observations contained in paragraphs 21, 22 and 23 of the said decision. The Supreme Court in paragraph 21 of the said decision emphasized that while examining claim in regard to 'Thakur' Scheduled Tribe, it is not necessary that in every case the scrutiny committee should send the case to the vigilance cell. Whenever a caste claim regarding 'Thakur' Scheduled Tribe is considered the caste scrutiny committee in every case should not mechanically refer the case to the vigilance cell for conducting an inquiry including the affinity test.

21. The Supreme Court also considered and dealt with a situation where the Applicant relied upon the caste validity certificate issued to his blood relatives. In this regard, the Supreme Court concluded that the affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of the correctness of a caste or tribe claim in every case. In other words, affinity test cannot be conclusive either way. This judgment finds support in a subsequent decision of the Supreme Court in ***Priya Pramod Gajbe Vs. The State of Maharashtra and Others***⁴. On similar lines, embracing the issue of caste validity certificate issued to blood relative and affinity test, is a recent decision of a coordinate bench of this

4. Civil Appeal No. 7117 of 2019 decided on 11 July 2023.

Court in *Kum. Minal D/o Bharatsing Thakur Vs. The State of Maharashtra*⁵, where a similar view to that in the Supreme Court decision (supra) was taken.

22. Pertinent it is to note that this very Bench of our Court had an occasion to consider such issue in *Santosh Baban Thakur (Rajwade) (Supra)*. This was a case where the Petitioner therein had contended that his claim was supported by caste validity certificate granted to close blood relatives from the parental side, despite which the impugned order invalidated the tribe claim of the Petitioner in respect the same validity certificate for Scheduled Tribe ‘Thakur’.

23. Considering the similarity of the facts, the reasons set out and the law relied in the said decision, in our view the same would squarely apply to the given factual complexion. It may be pertinent to note that findings of the Supreme Court in the decision of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)* are incorporated as reflected in the said decision of *Santosh Baban Thakur (Rajwade) (Supra)*.

24. We find that the Respondent No. 2 – Committee, in the Impugned Order, has adverted to the judgment of the Supreme Court in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (Supra)*, as well as to the fact that the real brother of the Petitioner has been granted a caste validity certificate for the same “Thakur” Scheduled Tribe. However, the Respondent

5. Writ Petition No. 8039 of 2009 decided on 8 May 2024.

No. 2 - Committee proceeded to deny the benefit of the same to the Petitioner on the ground that certain show cause notices had allegedly been issued to the said brother in respect of his caste validity certificate. Primarily on such basis, the Committee declined to extend the benefit of the brother's validity certificate to the Petitioner and ultimately invalidated her tribe claim.

25. In the above context, the Supreme Court in the decision of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (Supra)* has in paragraph 23 categorically observed that on the basis of the report of the vigilance cell, if the scrutiny committee is satisfied that the person in whose favour the caste validity certificate has been issued is a blood relative of the Applicant and lawful inquiry has been conducted before issuing the validity certificate, the scrutiny committee will have to issue the validity certificate. This would be de hors to the fact that the Applicant does not satisfy the affinity test. In this regard, the Supreme Court illustrated that if it is established that the father or grandfather of the Applicant has been given a caste validity certificate after holding a lawful inquiry, the caste scrutiny committee cannot hold that the grandfather or father of the Applicant as the case may be, belongs to the Scheduled Tribe but the Applicant does not belong Scheduled Tribe. It is only in the event if the relationship as pleaded by the Applicant is not established, the other evidence put forth by the Applicant, and the result of the affinity test then can be considered or taken

into account by the scrutiny committee. Such eventuality does not arise in the given facts and circumstances.

26. Insofar as the reliance by the Respondent on the pendency of show cause notice is concerned, it is apposite in this regard to refer to the decision of the Division Bench of this Court in *Shweta Balaji Isankar v. The State of Maharashtra*⁶. The Court clearly held that merely issuing show-cause notices, alleging fraud would not suffice where a validity certificate had been issued by the competent committee in respect of the blood relatives of the Petitioner on the parental side. This would squarely apply in the given case, as was relied upon in the earlier decision in *Santosh Baban Thakur (Rajwade) (Supra)*.

27. We find that the judgments cited (supra) have not been distinguished by the learned AGP appearing for Respondents, though she would strongly support the Impugned Order and submit that there is no infirmity, much less any illegality committed by the Respondent No. 2 - Committee, in passing such order.

28. We have also considered the decision of Coordinate Bench of this Court in *Sanjay s/o Krushna Thakur & Anr. (Supra)*, cited by Mr. Mendadkar. Here, a coordinate Bench of this Court, while quashing and setting aside the impugned order invalidating the claims of the Petitioner therein, directed that if any of the validity holders suffer invalidation in the

6. 2018 SCC OnLine Bom 10363.

reopened cases, the Committee would be at liberty to reopen the case, including that of the Petitioner. Any consequences arising from the invalidation of claims upon such reopening would also apply to the Petitioner.

29. Mr. Mendadkar would therefore submit that similar conditions can be imposed while disposing of the present petition as well. In our opinion, doing so would also serve the interest of justice, substantially.

30. In our considered view, for the reasons narrated above we are inclined to allow this petition by passing the following order :-

ORDER

- A) The writ petition is partly allowed.
- B) The Impugned Order dated 8 November 2024 invalidating the claim of the Petitioner is quashed and set aside.
- C) The caste validity certificate in respect of Thakur Scheduled Tribe community shall be issued by Respondent No. 2 – Committee to the Petitioner, within a period of 30 days from the date of uploading of this order.
- D) If any of the validity holders, on whom the Petitioners before us have relied upon for claiming validity, suffer invalidation in the reopened cases, the Respondent No. 2 – Committee would be at liberty to reopen the Petitioners' cases as well, and the consequences suffered by those candidates whose claims are

invalidated (after reopening of the case), would befall on these Petitioners as well.

- E) The Writ Petition is Disposed of in the above terms with no order as to costs.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA, J.]