

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 10324 OF 2023

1. Priya D/o Babasaheb Ingle,  
Age : 19 years, Occu. : Education,
2. Ravi s/o Babasaheb Ingle,  
Age : 21 years, Occu. : Education,
3. Mansi d/o Atmaram Ingle,  
Age : 22 years, Occu. : Education,

All R/o Bhavani Nagar,  
Juna Mondha, Aurangabad,  
Tq. Dist. Aurangabad.

.. Petitioners

**Versus**

Scheduled Tribe Certificate  
Scrutiny Committee, Aurangabad,  
near to CIDCO Bus stand,  
Town Center, Aurangabad,  
Dist. Aurangabad,  
through its Member Secretary.

.. Respondents

Shri Sagar S. Phatale, Advocate for the Petitioner.  
Shri A. S. Shinde, A.G.P. for the Respondent-sole.

**CORAM : MANGESH S. PATIL AND  
SHAILESH P. BRAHME, JJ.  
DATE : 08 SEPTEMBER 2023.**

**FINAL ORDER (Per Shailesh P. Brahme, J.) :-**

. Heard both sides finally at the admission stage.

2. The petitioners are challenging common judgment and

order dated 03.08.2023 passed by the respondent/Scrutiny Committee invalidating their caste claims as belonging to 'Thakur' (Scheduled Tribe) and confiscating tribe certificates.

3. The petitioners are banking their claims mainly on the documentary evidence of the school record of Pundalik Namdev of 1942 and Punjaji Namdev of 1934.

4. The learned Assistant Government Pleader would support the impugned judgment and order. He would submit that though the school record of the relatives of the petitioners is indicative of Thakur, but that is not a scheduled tribe Thakur. The forefathers of the petitioners are shown to have taken education. It is inconsistent with the normal features of the scheduled tribals residing in hilly and tribal area being deprived of educational facilities. According to him the scrutiny committee is justified in considering the contrary entries of Sandu and Ganesh to record that the petitioners have not made out a case.

5. It is further pointed out by the learned A. G. P. that the place of residence of the petitioners is not matching with the ordinary place of residence of the Scheduled Tribe community and there is no proof of migration. He would submit that the Committee has arrived at a plausible and reasonable conclusion on the basis of material on record.

6. We have considered the submissions of both the parties.

The school record of the relatives of the petitioners is placed on record to support the tribe claims of the petitioners. The admission register extract of school shows Thakur caste of Punjaji Namdev, which is of 1934. A school leaving certificate of Punjaji indicating caste as Thakur is of 1935. Similar school record of Pundlik Namdev is of 1942. They are the paternal side relatives of the petitioners, which is evidenced from the genealogy, at page No. 30 of the petition. The school record is verified during the course of vigilance enquiry.

7. The impugned judgment does not reflect any consideration of the old school record of Punjaji and Pundalik. It is pre-constitutional record having greater probative value. In view of the law laid down by the Supreme Court in the matter of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and others** reported in **(2012) 1 SCC 113**, old record supports tribe claims. The vital record is overlooked by the committee which is clinching. We find that the scrutiny committee has committed grave perversity.

8. The finding recorded by the scrutiny committee regarding education of forefathers of the petitioners because members of the scheduled tribe were residing in the tribal/hilly area and were deprived of education is preposterous. When there is existence of pre-constitutional record, we find that the findings of the scrutiny committee are based upon conjuncture and surmises. Same is unsustainable in law.

9. The place of residence of the forefathers is also not decisive factor. There is removal of area restriction in view of settled legal position by the Supreme Court in the matter of **Jayawant Dilip Pawar Vs. The State of Maharashtra and others** reported in **2018 (5) All M. R. 997 (S.C.)**. We are not persuaded by the submissions of the learned A. G. P.

10. We find that the impugned judgment and order is unsustainable. We therefore pass following order.

### ORDER

A. The writ petition is allowed.

B. The impugned common order dated 03.08.2023 passed by the respondent/Scrutiny Committee is quashed and set aside.

C. The respondent/Scrutiny Committee shall issue tribe validity certificates as belonging to the 'Thakur' (Scheduled Tribe) to the petitioners forthwith.

D. The writ petition is disposed of. There shall be no order as to costs.

[ SHAILESH P. BRAHME, J.]

[ MANGESH S. PATIL, J.]

*bsb/Sept. 23*