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

12 WRIT PETITION NO.11224 OF 2022

1. Yash s/o Rajendra Thakur,
Age- 19 years, Occ. Student
2. Sahil s/o Pravin Thakur,
Age-19 years, Occ. Student
3. Pravin s/o Rameshrao Thakur,
Age- 51 years, Occ. Private Service &
Agriculturist

All R/o village- Adawad, Tq. Chopda,
Dist. Jalgaon

...PETITIONERS

VERSUS

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai- 32.
Through its Secretary
2. The Scheduled Tribe Certificate
Scrutiny Committee, Dhule Division,
Dhule, Tq. & Dist. Dhule.
Through its Member Secretary

...RESPONDENTS

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Mr S. C. Yeramwar, Advocate for petitioners;
Mr S. G. Sangle, A.G.P. for respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 5th December, 2022

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ORAL JUDGMENT : (Per : Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. Petitioner Nos.1 and 2 are cousin brothers. Petitioner No.1 / Yash is the biological brother of Sakshi Rajendra Thakur. Petitioner No.2/Sahil is the son of Sakshi and Yash's cousin uncle, namely, Pravin Rameshrao Thakur. In short, Sahil's father Pravin Rameshrao Thakur is the biological brother of Rajendra, who is the father of Sakshi. Yash Rajendra Thakur and Sahil Pravin Thakur have suffered invalidation of their claim of belonging to the 'Thakur' - Scheduled Tribe category. Pravin Rameshrao Thakur, who is the biological brother of Rajendra and father of Sahil, is also a petitioner before us, in view of his claim having been invalidated along with petitioner Nos.1 and 2, by the impugned common judgment.

3. All these three petitioners have put forth prayer clauses (B), (C) and (D), which read as under :

“(B) To quash and set aside the impugned order dated 2.11.2022 passed by the Respondent No.2- Committee invalidating Tribe Claims of the Petitioners as belonging to

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‘Thakur – Scheduled Tribe’ (Exhibit-M) by issuing appropriate writ, orders, or directions as the case may be;

(C) To hold and declare that Petitioners belong to ‘Thakur – Scheduled Tribe’ and direct the Respondent No.2 – Committee to issue Certificates of Validity in favour of the Petitioners as belonging to ‘Thakur – Scheduled Tribe’ by issuing appropriate writ, orders, or directions as the case may be;

(D) To grant stay to the impugned order dated 2.11.2022 passed by the Respondent No.2- Committee invalidating Tribe Claims of the Petitioners as belonging to ‘Thakur – Scheduled Tribe’ (Exhibit-M) and direct the Respondents not to take any coercive action against the Petitioners on the basis of impugned decision of the Committee pending hearing and final disposal of the present Writ Petition;”

4. Insofar as the biological siblings, parents and blood relatives being granted validity certificates, the law does not expect an anomaly to be created, in the sense, e.g. the claim of the son normally cannot be rejected, if the father or biological siblings have been granted validity certificates. The Hon’ble Supreme Court, therefore, settled this aspect in the matter of **Raju Ramsing Vasave vs Mahesh Deorao Bhivapurkar & Ors, (2008) 9 SCC 54** and the Division Bench Judgment of this Court

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in **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, Nagpur, 2010 (6) Mh.L.J. 401 : AIR 2010 (6) BOM R 21.**

5. Sakshi Rajendra Thakur was before this Court in Writ Petition No.398/2021. By the Judgment dated 11/01/2021, the entire record was analyzed by this Court and by assigning detailed reasons, the judgment of the Scrutiny Committee, invalidating the claim of Sakshi, was quashed and set aside. The Committee was directed to issue the validity certificate to the petitioner, recognizing her to be a member of 'Thakur - Scheduled Tribe' category.

6. Pursuant to the above, Writ Petition Nos.9625/2019 and 9611/2019, filed by Amarnath Madanlal Thakur and Raghvendra Madanlal Thakur, were taken up for adjudication by this Court. Both these petitioners are the sons of Madanlal Shripat Thakur. Sakshi's paternal great grandfather Biharilal is the son of Shripat Thakur. Biharilal and Madanlal are biological brothers. Amarnath and Raghvendra are from the branch of Madanlal and Sakshi is from the branch of Biharilal. By a detailed judgment dated 30/08/2021, the claims of Amarnath and Raghvendra have

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been validated, by this Court. Since Amarnath passed away by the time this Court delivered the judgment, the validity certificate was handed over to his widow.

7. The learned A.G.P. has strenuously opposed this petition, contending that Sakshi was granted validity certificate by this Court, when necessary records were not noticed and placed before this Court. It is also stated that, Sakshi may not be related to Amarnath and Raghvendra.

8. We are of the view that, when this Court has delivered a judgment, validating the claim of Sakshi and considering Amarnath and Raghvendra to be belonging to the family tree, to which Sakshi belongs, and by a judgment, their claims have also been validated, it would not open to us to arrive at a finding, which would distinguish from the finding arrived at by a Co-ordinate Bench vide the above referred judgments. If the Committee was of the impression that the order passed in favour of Sakshi, which was considered while dealing with the cases of Amarnath and Raghvendra, was erroneous, it was always open to the Committee to adopt remedial steps. The two judgments delivered in the case of Sakshi (supra) and in the case of

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Amarnath and Raghvendra (supra), have not been challenged and no review has been filed. In the absence of initiating appropriate proceedings, mere submissions would not convince us to take a different view, until the orders passed in these matters are either recalled or modified. In these set of circumstances and the factual matrix, we would not venture into drawing a conclusion, which would be adverse to the present petitioner, in the backdrop of this Court having ruled in favour of Sakshi, Amarnath and Raghvendra.

9. In view of the above, this petition is allowed in terms of prayer clauses (B) and (C). Needless to state, since we are informed that the issue with regard to ‘Thakur - Scheduled Tribe’ is pending before a Larger Bench of the Hon’ble Supreme Court, obviously our order would be subject to the result of the said proceedings pending before the Hon’ble Supreme Court.

10. We, therefore, direct the Competent Committee at Dhule, to issue a validity certificate in favour of Yash Rajendra Thakur, Sahil Pravin Thakur and Pravin Rameshrao Thakur, as expeditiously as possible and in any case, on or before 09/12/2022.

11. Rule is made absolute in the above terms.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

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