



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

Writ Petition No. 6374 Of 2008

Subhash s/o Rama Thakur

Age : 38 years, Occupation-Service,

R/o. Kingaon, Tq. Yawal,

Dist. Jalgaon.

.. Petitioner

Versus

1. The State of Maharashtra,
Through the Chief Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.

2. The Scheduled Tribes Certificates Scrutiny
Committee, Nandurbar Division,
Nandurbar.

3. The Chief Executive Officer,
Zilla Parishad, Jalgaon.

.. Respondents

* Mr. V.B. Patil, Advocate for the Petitioner.

* Mrs. R.R. Tandale, AGP for Respondent Nos. 1 and 2/State.

* Mr. Sachin B. Munde, Advocate for Respondent No.3.

**CORAM : S.G. MEHARE AND
SHAILESH P. BRAHME, JJ..**

DATE : 7th MARCH 2025

ORAL JUDGMENT :

. Rule. Rule is made returnable forthwith. Heard both sides.

2. The Petitioner is questioning judgment and order dated 28.08.2008 passed by the Respondent No.2/Scrutiny Committee invalidating his tribe certificate of Scheduled Tribe Thakur.

3. Petitioner is relying on pre-constitutional School Record of Uncle – Shamrao Popat Thakur of 20.04.1937; School record of Uncle – Ramrao Popat Thakur of 06.08.1947 and School record of grandfather Popat Sandu Thakur of 01.06.1918. He is also relying on validity certificate of Parvati Vasant Thakur, his cousin.

4. Learned Counsel for the Petitioner submits that pre-constitutional record has greater probative value which is found to be genuine. The validity certificate of Parvati Thakur supports petitioner's claim. He would submit that the impugned judgment is unsustainable based on the finding of area restrictions and affinity test.

5. Per contra, learned AGP supports impugned judgment and order. He would vehemently submit that validity of Parvati is unreliable because it was issued on the basis of validities of maternal side relatives. The Committee has considered incompatible school record of petitioner showing caste as Hindu-OBC. She would further submit that the findings recorded are plausible and cannot be upset in writ jurisdiction.

6. We have considered rival submissions of the parties. There is no dispute that the validity holder – Parvati is cousin and paternal side relative of the petitioner. The pre-constitutional

record was verified by the Vigilance Cell and no reservation about the genuineness of the record was expressed in the vigilance report.

7. The school records of petitioner's father, grandfather and uncle were verified and found to be genuine. We rely on the settled legal position laid down by the Supreme Court in the matter of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Others**, (2012) 1 SCC 113. Interestingly besides pre-constitutional record, the School Leaving Certificate of petitioner's father showing date of admission as 05.07.1950 also indicates caste as Hindu Thakur. This record is closed to pre-constitutional record. The school record of the petitioner is found to be incompatible as it refers to Hindu-OBC. But relying on the same his caste claim cannot be rejected.

8. The findings recorded by the Committee regarding place of residence is liable to be quashed after removal of area restrictions and pronouncement of Supreme Court in the matter of **Palaghat Jila Thandan Samuday Sanrakshan Samiti and Anr. Vs. State of Kerala and Anr**, (1994) 1 SCC 359 and **Jaywant Pawar Vs. State of Maharashtra**, in Special Leave to Appeal No.2627/2010. The affinity test is not a litmus test is laid down by latest decision of Supreme Court in the matter of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.**, 2023 SCC Online SC 326.

9. The validity certificate issued to Parvati was founded on the

validity issued to her maternal side relative. During course of hearing, we are informed by learned AGP that Committee did not take any steps to propose re-verification of her validity. Her validity is still intact. Even if it is ignored, there is convincing material on record to support tribe claim of the petitioner. We find that impugned judgment and order is unsustainable. We, therefore, pass following order :

ORDER

- (i) Writ Petition is allowed.
- (ii) The judgment and order dated 28.08.2008 passed by the Scrutiny Committee is quashed and set aside.
- (iii) The Respondent/Scrutiny Committee shall issue tribe validity certificate of Thakur Scheduled Tribe to the petitioner forthwith.
- (iv) Rule is made absolute in above terms.

[SHAILESH P. BRAHME]
JUDGE

[S.G. MEHARE]
JUDGE

najeelb..