



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

WRIT PETITION NO.6374 OF 2019

Smt. Lalita d/o Suresh Thakur,
Age: 59 years, Occu: Retired as Supervisor,
R/o Plot No.14, Sant Dnyaneshwar Colony,
Jalgaon, Tq. & Dist. Jalgaon

....PETITIONER

VERSUS

1. The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai – 32
Through its Secretary
2. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar Division,
Nandurbar,
Through its Member Secretary
3. Zilla Parishad, Jalgaon,
Through its Chief Executive Officer
4. Woman and Child Development Officer,
Zilla Parishad, Jalgaon

....RESPONDENTS

....

AND

WRIT PETITION NO.2908 OF 2019

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R/o Plot No.14, Sant Dnyaneshwar Colony,
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Mr Mahesh S. Deshmukh, Advocate h/f Mr D. S. Patil and Mr Kapil J.
Thakur, Advocates for petitioner

Mr S. R. Wakale, A.G.P. for respondent Nos.1 & 2

Mr Nitin S. Choudhary, Advocate for respondent Nos.3 & 4

CORAM : MANGESH S. PATIL

AND

PRAFULLA S. KHUBALKAR, JJ.

DATE : 6th March, 2025

JUDGMENT (PER : PRAFULLA S. KHUBALKAR, J.)

WRIT PETITION NO. 6374 OF 2019

1. Heard.

2. Rule. Rule made returnable forthwith. By consent, heard
the parties for final hearing.

(3)

3. The petitioner takes exception to the order dated 23/04/2019, passed by respondent No.2/scrutiny committee invalidating the petitioner's claim for 'Thakur' Scheduled Tribe in a proceeding under Section 7 of the Maharashtra Scheduled Castes, and Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Maharashtra Act No.XXIII of 2001). By the impugned order, the committee has concluded that the petitioner has failed to establish her claim on the basis of the documentary evidence as well as on account of failure to prove her affinity with 'Thakur' scheduled tribe.

4. The committee has considered the documentary evidence relied upon by the petitioner and while dealing with the validity certificate relied upon by the petitioner, the committee has observed that the validity certificates were issued to the petitioner's real brother Bharat Suresh Thakur and her real niece Suvarna Jagannath Thakur, without proper affinity test and therefore, the validity certificates could not be relied upon to conclusively decide the petitioner's tribe claim.

5. Advocate Mahesh Deshmukh, learned counsel for the petitioner vehemently submits that the scrutiny committee has adopted

(4)

erroneous approach while considering the documentary evidence in favour of the petitioner. He submits that the validity certificates of petitioner's real brother Jagannath Suresh Thakur and real niece Suvarna Jagannath Thakur were wrongly discarded. He further submits that the school record of the petitioner's father dated 07/06/1930 was a document of pre-independence era having high probative value, which is although considered in the vigilance cell enquiry report, but the committee has erroneously discarded this document. He also submits that the validity of petitioner's niece Suvarna Jagannath Thakur granted on 16/10/2003 ought to have been relied upon and made the basis to decide the petitioner's caste claim. He then submits that Suvarna was granted validity after the Maharashtra Act No.XXIII of 2001 Act came into force and it was in accordance with the prescribed procedure. He further submits that validity of petitioner's real brothers Bharat Suresh Thakur and Jagannath Suresh Thakur were sufficient to validate petitioner's claim. It is submitted that in view of these validities, the committee has unnecessarily referred to the issue of affinity since it is established position of law that affinity is not a litmus test to decide the caste claim.

(5)

6. Per contra, Mr S. R. Wakale, learned A.G.P. for respondent Nos.1 and 2 justifies the impugned order. He points out that there are invalidities in the family of petitioner's husband including petitioner's father-in-law and brother-in-law and he refers to the observations of the committee about invalidation of claim of Dattu Namdev Thakur.

7. We have considered the rival contentions and perused the papers.

8. It has to be seen that there are validities in the family of the petitioner including validity of petitioner's real brother Jagannath and Bharat. Although these validities are granted prior to the Maharashtra Act No.XXIII of 2001, the same are in force and the petitioner is entitled to derive its benefits. The petitioner's reliance on validity of Suvarna Jagannath Thakur, who is her niece is justified as validity of Suvarna was granted after 2001 Act and by following proper procedure.

9. In view of the law laid down in the **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others, [AIR 2023 Supreme Court 1657]** and

(6)

Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others, [2010 (6) Mh. L.J. 401] considering the validities of petitioner's real brothers and real niece, the petitioner is also entitled for validation of her tribe claim. Hence, we pass the following order :-

- (a) The writ petition is allowed.
- (b) The impugned order dated 23/04/2019, passed by respondent No.2/caste scrutiny committee is quashed and set aside.
- (c) Respondent No.2/committee is directed to immediately issue the tribe validity certificate of 'Thakur' Scheduled Tribe to the petitioner in the prescribed format.
- (e) Rule is made absolute.
- (f) No order as to costs.

WRIT PETITION NO. 2908 OF 2019

10. The petitioner has filed this writ petition on 26/02/2019 seeking direction to respondent No.2/scrutiny committee to decide her caste claim within stipulated period and for directions to respondent

(7)

Nos.3 and 4 (employer) to release her pension and pensionary benefits without insisting for submission of caste validity certificate.

11. Since subject matter of both the petitions was about tribe claim of the petitioners, they are heard together.

12. In view of the decision in Writ Petition 6374/2019, by which the order of invalidation passed by the scrutiny committee is quashed and set aside, directing the committee to issue validity certificate to the petitioner, the instant petition is disposed of with directions to respondent Nos.3 and 4 to take decision about entitlement of the petitioner to pension and other retiral benefits, on production of validity certificate. The writ petition is accordingly disposed of.

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)

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