

DATTU S/O NAMDEV THAKUR

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v.

STATE OF MAHARASHTRA AND ORS.  
(Special Leave Petition (C) 3314 of 2010)

DECEMBER 07, 2011

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[ALTAMAS KABIR, SURINDER SINGH NIJJAR AND J.  
CHELAMESWAR, JJ.]

*Social status certificate: Scheduled tribe certificate issued to petitioner-father and petitioners-son and daughter – Cancellation of, by the Caste Scrutiny Committee – High Court upheld the decision of Committee – On appeal, held: The decision of Caste Scrutiny Committee and High Court is not disturbed – However, whatever advantage the petitioners had derived on the basis of their 'Caste Certificates', may not be disturbed and the cancellation of their respective 'Caste Certificates' would not deprive them of the benefits which they have already enjoyed – However, none of the petitioners would be entitled to take any further advantage of reservation in future, either for studies or for employment – If the petitioners have obtained any concession by way of reduction in fees, as a reserved candidate, they would have to make good the same by paying the difference in fees that is being paid by general candidates – The results of the petitioners would be published.*

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**The case of the petitioners was that the Caste Certificates granted to them on 7th June, 2001 by the competent authorities were invalidated by the Caste Scrutiny Committee mainly on the ground that they were unable to satisfy the Committee that they belonged to the 'Thakur' tribe recorded as a Scheduled Tribe at Serial no.44 of the Maharashtra Scheduled Tribes list and that the petitioners were also unable to prove by way of affinity test that they belonged to the Thakur Scheduled**

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**A** Tribe. The petitioners filed the writ petitions challenging the cancellation of the 'Caste Certificates'. The High Court dismissed the writ petitions. The Special Leave Petitions were filed challenging the order of the High Court.

**B** Dismissing the Special Leave Petitions, the Court

**HELD:** 1. The findings of the Caste Scrutiny Committee, as also that of the High Court is accepted. However, the fact is that reference was made to the Caste Scrutiny Committee in 2009, i.e. nine years after the certificates had been issued, and there is no proper explanation for such delay. The petitioner in the first writ petition was allowed by the respondents to continue in service and also by virtue of orders passed by the High Court. Similarly, the petitioners in the other two writ petitions have continued their studies after having obtained certain benefits from their 'Caste Certificates'. The petitioner in the second Special Leave Petition who is the son of the petitioner in the main Special Leave Petition, has in the meantime, appeared for the B.Pharmacy examination but his results have not been declared. Similarly, daughter of the petitioner in the main Special Leave Petition, who is the petitioner in the other Special Leave Petition, has appeared for the B.Ed.examination and her result is also to be declared. Whatever advantage the three petitioners in the three Special Leave Petitions, might have derived on the basis of their 'Caste Certificates', would not be disturbed and the cancellation of their respective 'Caste Certificates' would not deprive them of the benefits which they have already enjoyed. However, none of the three petitioners in the three respective Special Leave Petitions, would be entitled to take any further advantage of reservation in future, either for studies or for employment. However, if the petitioners in the 2nd and 3rd Special Leave Petition, have obtained any concession by way of reduction in fees, as a reserved candidate, they will have to make good

the same by paying the difference in fees that is being A  
paid by general candidates. Such payment has to be  
made within a period of six months and in default of such  
payment, this order will cease to have any effect. The  
results of the 2nd and 3rd petitioners shall, therefore, be  
published in view of this judgment. [Para 9, 10] [479-F-H; B  
480-A-C]

CIVIL APPELLATE JURISDICTION : SLP (Civil) No. 3314  
of 2010.

From the Judgment & Order dated 14.12.2009 of the Hghh C  
Court of Judicature of Bombay Bench at Aurangabad in Writ  
Petition No. 7813 of 2009.

WITH

SLP (C) Nos. 3370 & 3365 of 2010.

Anandbhushan Kanade, Shashibhushan P. Adgaonkar, D  
Anjani Kumar Jha for the Petitioner.

Shankar Chillarge, Adv., Asha Gopalan Nair, Irshad  
Ahmad for the Respondents.

The following Judgment of the Court was delivered E

**ALTAMAS KABIR, J.** 1. Special Leave Petition(C)Nos.  
3314, 3365 and 3370, all of 2010, which are on board today,  
all arise out of the judgment and final order dated 14th  
December, 2009, passed by the Aurangabad Bench of the F  
Bombay High Court in Writ Petition Nos.7813 of 2009, 8048  
of 2009 and 7289 of 2009.

2. The petitioner in SLP(C)No.3314 of 2010, is the father  
of the petitioners in the other two Special Leave Petitions, one  
being the son and the other being the daughter of the petitioner, G  
Dattu Thakur, son of Namdev Thakur. In all these cases, the  
grievance is common since the 'Caste Certificates' granted to  
them on 7th June, 2001, by the competent authorities were  
invalidated by the Caste Scrutiny Committee by its orders dated  
4th September, 2009 and 24th September, 2009. H

A        3. The Caste Certificates issued to the petitioners were  
 invalidated mainly on the ground that they were unable to satisfy  
 the Caste Scrutiny Committee that they belong to the 'Thakur'  
 tribe, which is recorded as a Scheduled Tribe at Serial No.44  
 of the Maharashtra Scheduled Tribes List. The Caste Scrutiny  
 B Committee also came to the finding that the School Leaving  
 Certificate of the father of the petitioner in SLP(C)No.3314 of  
 2010, did not really support the case of the petitioners who, in  
 any event, had also failed in the affinity test. It was submitted  
 that the documents tendered by them did not conform to their  
 C claim. Furthermore, the petitioners were also unable to prove  
 by way of affinity test that they belong to the Thakur Scheduled  
 Tribe.

4. Cancellation of the 'Caste Certificates' issued to the  
 petitioners on the basis of the report of the Caste Scrutiny  
 D Committee, was challenged by the petitioners in the aforesaid  
 writ petitions, in which the High Court upheld the findings of the  
 Caste Scrutiny Committee.

5. As indicated hereinabove, the Special Leave Petitions  
 E have been filed against the said order of the High Court.

6. Having heard learned counsel for the petitioner(s), as  
 well as the State of Maharashtra, we are of the view that even  
 if we are to accept the findings of the Caste Scrutiny  
 Committee, as also that of the High Court, we cannot ignore  
 F the various circumstances that have intervened between the  
 issuance of the 'Caste Certificates' and the cancellation thereof.  
 In fact, reference was made to the Caste Scrutiny Committee  
 in 2009, i.e. nine years after the certificates had been issued,  
 and there is no proper explanation for such delay. On the other  
 G hand, the petitioner in the first writ petition has been allowed  
 by the respondents to continue in service and also by virtue of  
 orders passed by the High Court. Similarly, the petitioners in  
 the other two writ petitions have continued their studies after  
 having obtained certain benefits from their 'Caste Certificates'.  
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We are now informed by Mr. Kanade, learned senior advocate, appearing for the petitioner(s), that the petitioner in the second Special Leave Petition, Amol, who is the son of Dattu Thakur, who is the petitioner in the main Special Leave Petition, has in the meantime, appeared for the B.Pharmacy examination but his results have not been declared. Similarly, Pratibha, daughter of Dattu Thakur, who is the petitioner in the other Special Leave Petition, has appeared for the B.Ed.examination and her result is also to be declared.

7. In support of the case of the petitioner(s), an order passed by another Bench of this Court in C.A.No.7411 of 2010 (*Swati Vs. State of Maharashtra & Ors.*), on 6th September, 2010, was brought to our notice, wherein in similar circumstances, the Court while dismissing the civil appeal, directed that the benefits that had already been enjoyed by the candidate, and the degree obtained by her in the BDS course, which she had completed, would continue. The Court further directed that she would not be entitled to any further benefits under the 'Caste Certificates' issued to her and that whatever advantage she may have obtained by way of payment of fees at a reduced rate, were to be made up by her by paying the difference.

8. We are of the view that this being a case of a similar nature, the decision of the said Bench may also be applied to the facts of this case.

9. Accordingly, while dismissing all the three Special Leave Petitions, we direct that whatever advantage the three petitioners in the three Special Leave Petitions, may have derived on the basis of their 'Caste Certificates', shall not be disturbed and the cancellation of their respective 'Caste Certificates' will not deprive them of the benefits which they have already enjoyed. However, we also make it clear that none of the three petitioners in the three respective Special Leave Petitions, will be entitled to take any further advantage of

- A reservation in future, either for studies or for employment. Following the judgment in Swati's case, we also direct that if the petitioners in the 2nd and 3rd Special Leave Petition, have obtained any concession by way of reduction in fees, as a reserved candidate, they will have to make good the same by
- B paying the difference in fees that is being paid by general candidates. Such payment has to be made within a period of six months and in default of such payment, this order will cease to have any effect.

- C 10. The results of the 2nd and 3rd petitioners shall, therefore, be published in view of this judgment.

11. There will be no orders as to costs.

D.G. Special Leave Petitions dismissed.