

Mah.Adiwasi Thakur Jamat Swarakshan ... vs The State Of Maharashtra on 24 March, 2022

Bench: Hemant Gupta, V. Ramasubramanian

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7ITEM NO.1

COURT NO.11

SECTION IX

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (C)

No(s). 24894/2009

(Arising out of impugned final judgment and order dated 07-05-2009
in WP No. 9659/2007 passed by the High Court of Judicature at
Bombay)

MAH.ADIWASI THAKUR JAMAT SWARAKSHAN SAMITI

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ORS.

Respondent(s)

(IA No. 102452/2021 - EXEMPTION FROM FILING O.T., IA No.
113198/2021 - INTERVENTION APPLICATION, IA No. 113183/2021 -
INTERVENTION APPLICATION, IA No. 102451/2021 - INTERVENTION/
IMPLEADMENT, IA No. 125711/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES, IA No. 124300/2021 - PERMISSION TO FILE
ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 119680/2021 -
PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ ANNEXURES, IA No.
111443/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES, I.A. NO.119682/2021 = APPLICATION FOR
EXEMPTION FROM FILING O.T., I.A. NO.116636/2021 - FOR PERMISSION TO
FILE ADDITIONAL DOCUMENTS, I.A. NO.116637/2021 - FOR EXEMPTION FROM
FILING O.T., I.A. NO.124303/2021 - APPLICATION FOR PERMISSION TO
FILE ADDITIONAL DOCUMENTS)

WITH

SLP(C) No. 28699/2018 (IX)

SLP(C) No. 26937/2018 (IX)

(I.A. 119275/2021 - APPLICATION FOR SUBSTITUTION, I.A.
NO.119276/2021 - FOR CONDONATION OF DELAY, I.A. NO.119280/2021 -
FOR SETTING ASIDE ABATEMENT)

SLP(C) No. 26846/2018 (IX)

SLP(C) No. 26949/2018 (IX)

SLP(C) No. 26270/2018 (IX)

SLP(C) No. 26231/2018 (IX)
(IA No. 138894/2018 - PERMISSION TO FILE ADDITIONAL
Signature Not Verified

DOCUMENTS/FACTS/ANNEXURES)
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Natarajan
Date: 2022.03.24
17:12:41 IST
Reason:

SLP(C) No. 469/2018 (IX)
(IA No. 2991/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT, IA No. 3141/2018 - EXEMPTION FROM FILING O.T., IA No.
2994/2018 - EXEMPTION FROM FILING O.T., IA No. 3138/2018 -

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PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES
IA No. 2995/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/
ANNEXURES, I.A. NO.130265/2019 – APPLICATION FOR PERMISSION TO FILE
ADDITIONAL DOCUMENTS)

SLP(C) No. 29015-29016/2018 (IX)

SLP(C) No. 25952/2018 (IX)

SLP(C) No. 26307/2018 (IX)

SLP(C) No. 26361/2018 (IX)

SLP(C) No. 26352/2018 (IX)

SLP(C) No. 26365/2018 (IX)

SLP(C) No. 26488/2018 (IX)

SLP(C) No. 29977/2018 (IX)

SLP(C) No. 5563/2019 (IX)
(I.A. NO.112369/2021 – APPLICATION FOR PERMISSION TO FILE
ADDITIONAL DOCUMENTS)

C.A. No. 3922-3923/2019 (III)

SLP(C) No. 24052-24053/2019 (IX)
(FOR ADMISSION and I.R.; IA No.125022/2019-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.125023/2019-EXEMPTION FROM
FILING O.T. and IA No.125021/2019-CONDONATION OF DELAY IN REFILING)

SLP(C) No. 17328/2019 (IX)

(FOR ADMISSION and I.R. ;)

SLP(C) No. 27736/2019 (IX)
(FOR ADMISSION and I.R. and IA No.179166/2019-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.179169/2019-EXEMPTION FROM
FILING O.T.)

SLP(C) No. 30862/2018 (IX)

SLP(C) No. 4037/2019 (IX)

SLP(C) No. 632/2019 (IX)

(I.A. NO.115107/2021 – FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS)

SLP(C) No. 15714/2010 (IX)

(I.A. NO.4/2010 – FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS)

SLP(C) No. 5894/2010 (IX)

(I.A. NO.113091/2018 – FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS)

SLP(C) No. 13502/2010 (IX)

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(IA No. 3/2013 - GRANT OF INTERIM RELIEF)

SLP(C) No. 14026/2010 (IX)

(I.A. NO.25943/2019 – FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS)

C.A. No. 8605/2010 (IX)

SLP(C) No. 38154/2013 (IX)

C.A. No. 8603/2010 (IX)

(IA No. 31895/2020 - APPLICATION FOR PERMISSION, IA No. 31907/2020
- EXEMPTION FROM FILING O.T., IA No. 31901/2020 – INTERVENTION/
IMPLEADMENT, IA No. 112357/2021 - WITHDRAWAL OF CASE / APPLICATION)

SLP(C) No. 28075/2010 (IX)

(IA No. 147968/2019 - APPROPRIATE ORDERS/DIRECTIONS, IA No.
26481/2022 - APPROPRIATE ORDERS/DIRECTIONS)

SLP(C) No. 13598/2012 (IX)

SLP(C) No. 15746/2012 (IX)

SLP(C) No. 38557/2012 (IX)

SLP(C) No. 26351/2018 (IX)

SLP(C) No. 26281/2018 (IX)

(I.A. NO.115119 – FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS, I.A.
NO.115122 – APPLICATION FOR EXEMPTION FROM FILING O.T.)

SLP(C) No. 26332/2018 (IX)

(I.A. 124337/2021 – FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS,

I.A. NO.124339/2021 – FOR EXEMPTION FROM FILING O.T., I.A.
NO.124343/2021 – FOR SUBSTITUTION TO BRING LRS OF PETITIONER)

SLP(C) No. 26520/2018 (IX)

C.A. No. 6902-6904/2009 (IX)
(IA No. 9247/2020 - INTERVENTION APPLICATION, IA No. 189448/2019 –
INTERVENTION/IMPLEADMENT)

C.A. No. 9335/2013 (III)

SLP(C) No. 24583/2018 (IX)

SLP(C) No. 26704/2018 (IX)

SLP(C) No. 25975/2018 (IX)
(I.A. NO.114734 - FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS)

SLP(C) No. 26471/2018 (IX)

SLP(C) No. 26152/2018 (IX)

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SLP(C) No. 26327/2018 (IX)

SLP(C) No. 26343/2018 (IX)
(I.A. NO.124581/2018 – APPLICATION FOR PERMISSION TO FILE
ADDITIONAL DOCUMENTS, I.A. NO.124582/2021 – FOR EXEMPTION FROM
FILING OFFICIAL TRANSLATION, I.A. 114726/2018 – FOR PERMISSION TO
FILE ADDITIONAL DOCUMENTS)

Date : 24-03-2022 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Parties	Mrs. V. Mohana, Sr. Adv. Mr. Gagan Sanghi, Adv. Mr. Chander Shekhar Ashri, AOR
	Mr. Vivek C. Solshe, Adv. Mr. Varun V. Solshe, Adv. Mr. Anjani Kumar Jha, AOR
	Mr. Abhijeet Sinha, AOR
	Mr. Kishor Lambat, Adv. Ms. Kashmira Lambat, Adv. For M/S. Lambat And Associates, AOR
	Mr. Gagan Sanghi, Adv. Mr. Rameshwar Prasad Goyal, AOR

Mr. Amlan Kumar Ghosh, AOR

Mr. Shirish K. Deshpande, AOR
Ms. Rucha Pravin Mandlik, Adv.
Mr. Mohit Gautam, Adv.

Mr. Sudhanshu S. Choudhari, AOR
Mr. Mahesh P. Shinde, Adv.
Ms. Rucha A. Pande, Adv.

Mr. Sanjay Kumar Visen, AOR
Ms. Babita Mishra, Adv.

Mr. S. Sukumaran, Adv.
Mr. Anand Sukumar, Adv.
Mr. Bhupesh Kumar Pathak, Adv.
Mrs. Meera Mathur, AOR

Mr. Shyam Diwan, Sr. Adv.
Mr. Ravindra K. Adsure, Adv.
Mr. Pravin Patil, Adv.
Mr. Rahul Chitnis, Adv.

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Mr. Aaditya A. Pande, Adv.
Mr. Sachin Patil, AOR
Mr. Geo Joseph, Adv.
Ms. Shweta Shepal, Adv.
Mr. Sudipto Sarcar, Adv.
Mr. Adith Deshmukh, Adv.
Mr. Yash Prashant Sonavane, Adv.
Mr. Digvijay Shivaji Kachare, Adv.

Ms. Mayuri Raghuvarshi, AOR
Mr. Vyom Raghuvarshi, Adv.
Mr. Purvat Wali, Adv.

Ms. Madhavi Diwan, ASG
Mr. R. Bala. Sr. Adv.
Mr. Anmol Chandan, Adv.
Ms. Neela Kedar Gokhale, Adv.
Ms. Vimla Sinha, Adv.
Mr. G.S. Makker, AoR

Ms. Neela Gokhale, Adv.
Mr. Kushal Chaudhary, Adv.
Mr. Gurmeet Singh Makker, AOR
Mr. Sourav Singh, Adv.

Mr. Shubham Seth, Adv.
Mr. Mrinal Chaudhry, Adv.
Mr. Nikilesh Ramachandran, AOR

Mr. Suhas Kadam, Adv.
M/S. Black & White Solicitors, AOR

Ms. Bharti Tyagi, AOR

Mr. Bhargava V Desai, AOR
Mr. Utkarsh Vats, Adv.

Mr. Sudarsh Menon, AOR

Mr. J.N. Singh, Adv.
Mr. Deepak K. Singh, Adv.
Mr. Sunny Kumar, Adv.
Mr. Atul Garg, Adv.
Mr. Amit Bhati, Adv.
Mr. S.J. Singh, Adv.
Mr. Saurabh Mishra, AOR

Mr. Nishant Ramakantrao Katneshwarkar, AOR

Mr. R. P. Gupta, AOR

Mr. Rajat Joseph, AOR

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Mr. Ajai Kumar Bhatia, AOR

Mr. Gaurav Agrawal, AOR

Ms. Pallavi Sharma, AOR

Mr. Amol B. Karande, AOR
Mr. Mahesh B. Karande, Adv.
Mr. Sarvan Kumar, Adv.
Mr. Pulkit Tyagi, Adv.

Mr. Pratik R. Bombarde, AOR
Mr. Devendra Singh, Adv.
Mr. Abhishek Kumar, Adv.

Mr. Abhijit S. Kamble, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. S.K. Rajora, Adv.
Mr. Akhileshwar Jha, Adv.
Ms. Kavitha S. M., Adv.
Mr. Amit Kumar, Adv.

Mr. Sidheshwar Biradar, Adv.
Mr. Yogesh Ramesh Joshi, Adv.
Mr. Bhagat Singh Padvi, Adv.
Mr. Gopal Balwant Sathe, AOR

Mr. Mehul M. Gupta, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted in all the special leave petitions. The correctness of the judgment of Full Bench of Bombay High Court in Writ Petition No.5028/2006 in ‘Shilpa Vishnu Thakur Vs. State of Maharashtra & Ors.’ and other cases is subject matter of consideration before this Court. The Full Bench of Bombay High Court has interpreted the Maharashtra Scheduled Caste, 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 (for short, ‘the Act’) and the set of the Rules framed under the aforesaid Act.

The High Court held that the affinity test is an integral part of the determination of the correctness of the claim of the caste certificate. It has been further held that in order to determine whether a person genuinely belongs to a designated Scheduled Tribe, the Scrutiny Committee must have regard to the entire evidence including on the question as to whether the applicant has satisfied the affinity test.

The said judgment was referred to by this Court in a judgment reported as (2010) 14 SCC 489 ‘Vijakumar Vs. State of Maharashtra & Ors.’ wherein, a certificate issued to the uncle of the appellant was found to be of no use as such certificate is not found to be validated by the Scrutiny Committee. However, in another judgment reported as (2012) 1 SCC 113, ‘Anand Vs. Committee for Scrutiny and Verification of Tribe Claims & Ors.’, the said earlier judgment nor the judgment of the Full Bench of High Court was referred to. In the later, this Court has delineated the parameters which have to be kept in view while deciding the genuineness of the caste certificate.

The question as to whether what should be the parameters available to the Scrutiny Committee for verification of caste certificate is matter of importance arising out of interpretation of the Act and the Rule framed therein.

Two judgments have taken a view which require a consideration by a larger Bench of three Judges for authoritative decision on the questions of the parameters which have to be taken into consideration by the Scrutiny Committee to verify the caste certificate.

Let these matters be placed before the Hon’ble The Chief Justice of India for consideration of the matter by the Three Judge Bench. The issue arises in many cases in the State of Maharashtra and in view of the fact, the special leave petitions were filed in the year 2009, we request the constitution of the larger Bench at an early date.

(SWETA BALODI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)