

C.A.No. 4088 OF 1998
ITEM No.102

Court No. 8

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 4088 of 1998

STATE OF MAHARASHTRA & ORS.

Appellant (s)

VERSUS

SUNIL MURALIDHAR THAKUR & ANR. Respondent (s)

With Civil Appeal No. 926 of 1999
(With prayer for interim relief and office report)

Date : 21/01/2004 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)Mr. Ravindra Kumar Adsure,Adv.
In CA 4088/98:Mr. Mukesh K. Giri,Adv.

In CA 926/99:Mr. Himanshu Gupta,Adv.
Mr. Shivaji M. Jadhav,Adv.

For Respondent (s)Mr. V.A. Mohta,Sr.Adv.
Mr. S.K. Verma,Adv.
Mr. M.K. Choudhary,Adv.
Ms. Rashmi Rai,Adv.
Mr. Neelkanth,Adv.

Mr. Ravindra Kumar Adsure,Adv.

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

Civil Appeal No. 4088 of 1998:

Heard the learned counsel for the parties from 2.50 p.m. to 3.35 p.m.

The civil appeal is allowed.

No costs.

Civil Appeal No. 926 of 1999:

List tomorrow, i.e., 22nd January, 2004 as part-heard.

[T.I. Rajput][Shelly Sengupta]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

State of Maharashtra & Ors. ...Appellant(s)

Versus

Sunil Muralidhar Thakur & Anr. ...Respondent(s)

O R D E R

Having heard the learned counsel on either side, we are satisfied that the writ petition filed before the High Court requires to be examined on the merits of the respective contentions. The High Court has disposed of the writ petition following the decision of this Court in Palghat Jilla Thandan Samudhaya Samrakshna Samithi & Anr. vs. State of Kerala & Anr. (1994 (1) S.C.C . 359). The question that arose for consideration before the High Court was whether the respondents belong to Thakur Schedule Tribe, which is one of the entries in the Schedule Tribes Order. The question had to be decided on the basis of the material placed on record. The question that arose for consideration in Palghat Jilla Thandan Samudhaya Samrakshna Samithi & Anr. (supra) was whether the State Government or the Court can enquire into or let in evidence about the correctness of

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entry of Schedule Caste in the Schedule Castes Order which has to be applied as it stands until the same is amended by appropriate legislation. Such a question clearly did not arise in the case at hand. The question that arose for consideration, as already noticed above, was whether the respondents belong to Thakur Schedule Tribe, which is one of the enumerated entries in the Schedule Tribes Order. This being the position, the High Court, in our view, was not right and justified in disposing of the writ petition by merely referring to the decision of this Court in Palghat Jilla Thandan Samudhaya Samrakshna Samithi & Anr. (supra). Without expressing one way or the other on the merits of the respective contentions, we set aside the order and remit the writ petition to the High Court for disposal afresh in accordance with law. All the contentions of the parties are left open to be urged before the High Court. The civil appeal is, accordingly, allowed. No costs.

.....J.
[SHIVARAJ V. PATIL]

.....J.
[D.M. DHARMADHIKARI]

New Delhi,
January 21, 2004.