

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

**Writ Petition No. 4449 / 2012**

Abhijit s/o Ashok More

...Petitioner

**Versus**

1. The State of Maharashtra,  
Through its Secretary  
Tribal Development Department,  
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate  
Scrutiny Committee, Nandurbar Division,  
Nandurbar.  
through its Vice-Chairman.
3. The Sub-Divisional Officer,  
Pachora, Dist. Jalgaon.
4. Maharashtra University of Health Sciences,  
Vani Road, Nashik  
Through its Registrar.
5. The Dean,  
Grant Medical College & Sir J.J. Group of  
Hospitals, Mumbai.

...Respondents

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Mr. M.A. Golegaonkar h/f Mr. A.S. Golegaonkar,  
Advocate for the Petitioner.

Mr. S.G. Sangale, AGP for respondents/State.

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**CORAM : MANGESH S. PATIL &  
SHAILESH P. BRAHME, JJ.**

**DATE : 14 SEPTEMBER 2023.**

**FINAL ORDER [SHAILESH P. BRAHME, J.] :**

. Heard both the sides finally.

1. The petitioner is challenging the judgment and order dated 17.04.2012, invalidating his tribe certificate of Thakur scheduled tribe and confiscating the same. The petitioner has relied upon the old record of grandfather of the petitioner of 1930, father of the petitioner of 1966 and uncle of the petitioner of 1961. It is submitted that there is consistent record indicating caste as Thakur and the Scrutiny Committee has committed patent illegality in rejecting the caste claim.

2. The learned AGP supports the impugned judgment and order. According to him, the Committee has rightly rejected tribe claim because the documents on record do not describe the caste as Thakur scheduled tribe. The affinity test is rightly recorded against the petitioner. The petitioner has failed to make out a case of migration. The petitioner is misrepresenting to be member of scheduled tribe. According to him, there is no illegality or perversity in the impugned judgment and order.

3. We have considered the submissions of the parties. We find that there is school record of Ramdas Motiram Thakur of 1930, Ashok Ramdas More of 1953 and Subhash Ramdas More of 1961. The old record was verified in the vigilance enquiry. The oldest entry of grandfather of the petitioner of 1930 is clinching. Being pre-constitutional entry, it has greater probative value. We can safely rely upon it as laid down by the Supreme Court in the matter of **Anand Versus Committee for Scrutiny and Verification of Tribe Claims and Others**, reported in (2012) 1 SCC 113.

4. The Scrutiny Committee recorded affinity test against the petitioner. The affinity test is not a litmus test and it is not conclusive. The law laid down by the Supreme Court in the matter of **Maharashtra Adavasi Thakur Jamat Swarakshak Samiti vs. State of Maharashtra & others** reported in 2023(2) Mh.L.J.785, is applicable. The learned Counsel for the petitioner has informed that the review preferred by the State of Maharashtra against the judgment of the Supreme Court cited by is also dismissed on 12.09.2023. We hold that the Committee has committed perversity in rejecting the caste claim.

5. We hold that the impugned judgment is liable to be quashed and set aside. We, therefore, dispose of the writ petition by passing following order.

**ORDER**

- (i) The writ petition is allowed.
- (ii) The judgment and order dated 17.04.2012 passed by the Scrutiny Committee is quashed and set aside.
- (iii) The Scrutiny Committee shall issue tribe validity certificate of Thakur scheduled tribe to the petitioner forthwith..

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

NAJEEB/..