



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6120 OF 2018

with

WRIT PETITION NO. 164 OF 2020

WRIT PETITION NO. 6120 OF 2018

Sanjay s/o. Manikrao Ingle,
age 49 yrs, Occ. Service,
R/o. Bhawani Vesh, Daryapur,
Tahsil Daryapur, District Amravati

.....PETITIONER

...VERSUS...

1. Schedule Tribe Caste Certificate
Scrutiny Committee Irwin Chowk,
Amravati Division, Amravati.
Through its Vice Chairman/Jt. Commissioner,

2. Education Officer, (Secondary),
Zilla Parishad, Amravati

3. Shri Shivaji Education Society,
Amravati, Through its secretary,
Gadge Nagar, Amravati

.... RESPONDENTS

WRIT PETITION NO. 164 OF 2020

Aditya S/o. Sanjay Ingle,
age 18 yrs, Occ. Student,
R/o. Bhawani Vesh, Daryapur,
Tahsil Daryapur, District Amravati

.....PETITIONER

...VERSUS...

1. Schedule Tribe Caste Certificate
Scrutiny Committee Irwin Chowk,
Amravati Division, Amravati.
Through its Vice Chairman/ Jt. Commissioner

2. Maharashtra Council of Agriculture]
Education & Research, 132/B Bhamburda,]
Bhosale Nagar, Pune 411 007]
through its Director General]
]

3. Dr. Panjabrao Deshmukh,
Krishi Vidyapeeth, Akola
through its Registrar

] Respondent Nos. 2,3,4
] deleted as per Court
] order dated 21.12.2022.

4. College of Agriculture, Akola,]
Tq. & Dist. Akola, through its Principal.] **...RESPONDENTS**

Mr. H.D. Dangre, counsel for the petitioners,
Ms. Kalyani Marpakwar, AGP for respondent Nos. 1& 2/State.

CORAM:- NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.

DATE : 02.05.2024

JUDGMENT (Per: Abhay J. Mantri, J.)

These petitions arise out of an order dated 01.08.2018, passed by the Schedule Tribe Caste Certificate Scrutiny Committee, Amravati Division, Amravati (for short- "*the Committee*"), thereby negating the claim of the petitioners that they belong to '*Thakur*' Scheduled Tribe, therefore, both petitions are heard and decided together.

2. The petitioner in Writ Petition No. 6120/2018 has obtained a caste certificate dated 01.07.1986 from the Executive Magistrate, Daryapur, District Amravati that he belongs to the '*Thakur*' Scheduled Tribe. Based on the said certificate, he was appointed to the post of Laboratory Attendant at respondent No. 3 Education Society on 02.02.1993. After joining the duties, he submitted a proposal for verification of his caste claim. The Headmaster of Shivaji Vidyalaya vide letter dated 15.12.2003 has forwarded his caste certificate along with documents to respondent

No.1 Committee for verification of his caste claim.

3. The petitioner in Writ Petition No. 164/2020 has also obtained a caste certificate from the Sub-Divisional Officer, Daryapur, District Amravati dated 02.06.2016 that he belongs to the ‘*Thakur*’ Scheduled Tribe. The petitioner has submitted a proposal for verification of his caste claim to the College. The college vide letter dated 21.06.2017 forwarded the proposal for verification of his caste claim to the Committee along with necessary documents.

4. The Committee, being dissatisfied with the documents, forwarded the case to the Vigilance Cell. Accordingly, the Vigilance Cell conducted an enquiry and submitted its report to the Committee. The Committee, after considering the report as well as the documents on record, vide order impugned has invalidated the petitioners' claim that they belong to the “*Thakur*” Scheduled Tribe. Being aggrieved by the same, the petitioners have preferred these petitions.

5. Mr. H.D. Dangre, the learned counsel for the petitioners has vehemently argued that the petitioners in support of their claim have produced as many as 28 documents out of which 7 documents

are of the pre-independence era from the year 1938 to 1950 pertaining to their ancestors, however, the Committee has not considered the same in its proper perspective and gave undue importance to the single document of the year 1935 and outrightly rejected the claim of petitioners that they belong to 'Thakur' Scheduled Tribe. To buttress submissions, he has relied upon the following Judgments:

- (i) *Jaywant Dilip Pawar Vs. State of Maharashtra and Others*, 2018(5) ALL MR. 975;
- (ii) *Pallavi d/o. Prakashrao Pawar Vs. Scheduled Tribe Caste Scrutiny Committee, Amravati and Others*, 2019(4)Mh. L.J. 855;
- (iii) *Tatya Vishnu Ranshur Vs. The State of Mah. and Others*, 2020(1)All MR 612;
- (iv) *Amarnath s/o. Madanlal Thakur Vs. The Scheduled Tribe Certificate Scrutiny Committee and Another*, 2022(3) ALL MR 254;
- (v) *Harshal s/o.Rajendra Thakur Vs. The State of Mah. Dept. Tribal Development Thr. Secretary and Anr (Writ Petition No. 11342/2019)*;
- (vi) *Rahul S/o. Ramesh Shinde Vs. The State of Maharashtra and Ors (Writ Petition No. 7500/2022)*;
- (vii) *Yogesh Macchindra More Vs. State of Maharashtra and Others (Writ Petition No. 434/2016 and*
- (viii) *Ranjit Dadosa More Vs. State of Maharashtra and Others (W. P No. 4941/2022)*.

In view of the above, he would urge for allowing the petitions.

6. Ms. Kalyani Markpakwar, the learned AGP has contended that the birth record of Ramkrushna, the great-grandfather of the petitioner Sanjay shows that he belongs to the 'Bhat' caste. The said

entry appears contrary to the entries in other documents. According to her, this anomaly would show that the petitioners do not belong to the '*Thakur*' Scheduled Tribe. In support of her submissions, she has relied upon the judgments cited in an affidavit in reply. Furthermore, she submitted that the petitioners had failed to prove the affinity test as well as they were residents of the area mentioned in the Presidential Order, 1956. Thus, he would urge that passing of the order impugned is just and proper, and no interference is required in it.

7. We have appreciated the rival submissions. Perused the impugned order, documents, and record. We have gone through the Judgments relied upon by both parties.

8. The record shows that except for one adverse entry of the birth record which depicts that one Ramkrushna belongs to the '*Bhat*' caste, however, the entries in the rest of the 28 documents show that the petitioners and their ancestors belong to the "*Thakur*" caste. Out of the 28 documents, 7 documents are of the pre-constitutional era i.e. from the year 1938 to 1950. Those documents support the claim of the petitioners.

9. It further reveals that the Vigilance Cell alleges that Ramkrushna is the great-grandfather of petitioner Sanjay. However, by filing a reply before the Committee, the petitioners categorically disputed the entry of the year 1935 and denied the said document. The petitioners further candidly denied that alleged Ramkrushna is the grandfather of petitioner Sanjay, rather they claimed that the father of petitioner Sanjay was born on 10.11.1932. Therefore, it is not possible that the entry about the birth of his grandfather Ramkrushna was of the year 1935. Therefore, they denied the said document. It is also averred that till this date; no caste validity certificate has been obtained by their relatives nor any case for a grant of validity has been rejected. A perusal of said document denotes that one female Baby was born on 03.02.1935. The name of the father of said baby was shown as Ramkrushna. The name of Ramkrushna's father is not mentioned therein, but in the bracket, '*Bhat*' is mentioned.

10. A perusal of entry in the school admission register, for the year 1940 depicts that the father of petitioner Sanjay was born on 10.11.1932 and his caste was shown as "*Thakur*." The said entry appears before the entry of the year 1935. The said document along

with 6 other pre-independent era documents or their genuineness is neither disputed nor denied by the Committee or vigilance Cell, as such, there is no reason to disbelieve the entries in said documents. The said 7 documents are from the year 1938 to 1950 and in all those documents, a caste of the ancestors of the petitioners is shown as “*Thakur*.” The said documents have more probative value.

11. The main controversy arises whether a single indeterminate entry in the ambiguous document would prevail over the other undisputed entries in 7 pre-constitutional era documents. *Certainly*, in our opinion consistent entries in 7 undisputed pre-constitutional era documents would prevail over the ambiguous single entry as entries in 7 documents have more probative value than a single ambiguous entry in an indecisive document. *Moreover*, the learned counsel has submitted that in view of the dictum laid down in the judgments in the cases of *Harshal s/o.Rajendra Thakur*, *Rahul S/o. Ramesh Shinde*, *Yogesh Macchindra More*, and *Ranjit Dadosa More (cited supra)* the single entry is not sufficient to discard the claim of the petitioners that they belong to the ‘*Thakur*’ Scheduled Tribe since the other 7 oldest entries of the pre-constitutional era are having greater probative value. Besides, it cannot be ignored that the

petitioners have categorically denied the entry of the year 1935 as well as their relationship with the alleged Ramkrushna. Thus, it appears that the said document is under the cloud. In such an eventuality, it cannot be said that the said vague document of the year 1935 vitiates the entries of other documents or claims of the petitioners as they belong to the “*Thakur*” Scheduled Tribe.

12. The learned counsel for the petitioners argued that the area restriction in the state of Maharashtra for the “*Thakur*” community has been removed by the Order (Amendment) Act No. 108 of 1976 therefore in view of the dictum laid down in the cases of *Jaywant Dilip Pawar*, *Tatya Vishnu Ranshur*, and *Amarnath s/o. Madanlal* (cited supra) it would not affect the claim of the petitioner on the ground of area restriction. Similarly, the affinity test cannot be termed as a litmus test as has been held in the cases of *Pallavi d/o. Prakashrao Pawar* and *Writ Petition No. 597/2021 Anand s/o. Dattatraya Kumbhare*. (cited supra).

13. It is pertinent to note that by virtue of the Order (Amendment Act No. 108) of 1976, the area restriction in the State of Maharashtra for the Schedule Tribe community has been

removed. As such, the findings of the Committee with regard to area restriction are not sustainable in the eyes of the law. Similarly, the Hon'ble Apex Court in the case of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Others***, (AIR 2023 SC 1657) has held that *"the affinity test cannot be termed as a litmus test, particularly, when pre-constitutional documents are existing and placed on record. Moreover, the test cannot be said to be conclusive in finding out whether the petitioner belongs to the 'Thakur' Scheduled Tribe."* In such an eventuality, the findings of the Committee that the petitioner failed to prove affinity test is also not sustainable in the eyes of law. Hence, we find substance in the contentions of learned counsel for the petitioner in that regard.

14. Furthermore, it would be proper to refer to the observations made in para 20 of the judgment in the case of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (Supra)***, which reads as under:-

"20. It is not possible to exhaustively lay down in which cases the Scrutiny Committee must refer the case to the Vigilance Cell. One of the tests is as laid down in the case of Kumari Madhuri Patil 1. It lays down that the documents of the pre-Constitution period showing the caste of the applicant and their ancestors have got the highest probative value. For example, if an applicant is able to produce

authentic and genuine documents of the pre-Constitution period showing that he belongs to a tribal community, there is no reason to discard his claim as prior to 1950, there were no reservations provided to the Tribes included in the ST order. In such a case, a reference to Vigilance Cell is not warranted at all."

15. Thus, to sum up the aforesaid discussion, it clearly reveals that the petitioners in support of their claim have relied upon as many as seven pre-constitutional era documents from the year 1938 to 1950. In all those documents, the caste of the ancestors of the petitioners is mentioned as "*Thakur*". It also seems that the oldest entry is of the year 1932 i.e. before the disputed and vague entry of the year 1935. However, the Committee has not considered the entries in the other seven documents and has given undue importance to the entry in one disputed and vague document and negated the claim of the petitioner.

16. Having regard to the aforesaid discussion and the law laid down in aforecited judgments, it is apparent that the petitioner has proved that he belongs to the '*Thakur*' Scheduled Tribe.

17. In the aforesaid background, in our opinion, based on the findings given in the order impugned, the same is not sustainable in

the eyes of the law. Therefore, the same is liable to be quashed and set aside. As a result, we held that the Committee had erred in rejecting the claim of the petitioners.

18. In the light of the discussion supra, we deem it appropriate to allow the present petitions and proceed to pass the following order:

- (i) The Writ petitions are allowed.
- (ii) The impugned order dated 01.08.2018 passed by the respondent - Committee is hereby quashed and set aside.
- (iii) It is declared that the petitioners belong to the '*Thakur*' Scheduled Tribe.
- (iv) The respondent Committee is directed to issue a Caste Validity Certificate to the petitioners as they belong to '*Thakur*' Scheduled Tribes within a period of four weeks from the production of a copy of this judgment.
- (v) As a sequel of the above, respondents No. 2 & 3 are directed not to take any coercive action against petitioner Sanjay S/o. Manikrao Ingle, based on the order dated 01.08.2018.

19. Petition is allowed in the aforesaid terms. No cost.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)