



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

WRIT PETITION NO. 376 OF 2024

Akash s/o. Ramesh Ingle,
age 27 yrs, Occ. Service,
R/o. Ambika Nagar, Pratiksha
Niwas, Dabki Road, Old City,
Akola

.....PETITIONER

...V E R S U S...

1. Vice Chairman/Jt. Commissioner,
Schedule Tribe Caste Certificate
Scrutiny Committee,
Amravati Division, Old Bypass Road,
Chaprashipura Amravati,

2. Team Recruitment,
Human Resources Management
Department, Reserve Bank of India,
Mumbai Regional Office,
1st Floor, Shahid Bhagat Singh Marg,
Fort Mumbai 400 001,
through its Manager (HR).

.... RESPONDENTS

Mr. A. P. Kalmegh, counsel for the petitioners,
Ms. T.H. Khan, AGP for respondent No. 1/State,
Mr. R.M. Bhangde, counsel for respondent No. 2.

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

DATE : 22.04.2024

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

1. Rule. Rule is made returnable forthwith and heard finally
with the consent of the learned counsel for the parties.

2. The petitioner is challenging the order dated 19.12.2023, passed by respondent No. 1 - Schedule Tribe Caste Certificate Scrutiny Committee, Amravati Division, Amravati (for short -“*the Committee*”,) whereby the caste claim of the petitioner of belonging to ‘Thakur’ Scheduled Tribe came to be rejected.

3. It is the case of the petitioner that he belongs to the ‘*Thakur*’ Scheduled Tribe. On 09.09.2019, Sub Divisional Officer, Akola issued a caste certificate in his favour. The petitioner, availing the benefits prescribed for the Scheduled Tribe category joined his duties in the State Bank of India as an Associate. He submitted his caste certificate along with necessary documents through his employer to the Committee on 16.11.2022. Also, he has preferred W. P. No. 1555/2023 for issuance of direction to the Committee to decide his tribe claim within a stipulated period. This Court vide order dated 21.03.2023 has disposed of the petition directing the Committee to decide the claim of the petitioner on or before 15.08.2023.

4. The Committee, dissatisfied with the documents produced by the petitioner, forwarded the same to Vigilance Cell for detailed enquiry. On completion of the enquiry, the Vigilance Cell

submitted its report to the Committee on 27.04.2023. Considering the Vigilance Report and the documents on record, the Committee concluded that the petitioner has failed to prove that he belongs to the '*Thakur*' Scheduled Tribe and accordingly rejected his claim for the grant of validity certificate.

5. Learned counsel Mr. A.P. Kalmegh has vehemently argued that the petitioner in support of his caste claim has produced as many as sixteen documents, out of which, five are of pre-constitution era pertaining to his ancestors which denote that they belong to Thakur Scheduled Tribe. None of the entries in the said documents were found contrary to the claim of the petitioner. However, without considering the pre-constitutional entries, the Committee has erred in holding that the petitioner failed to prove the affinity test and that they were not residents of the area mentioned in the Presidential Order.

6. The learned AGP Ms. T.H. Khan has not disputed the fact that no inconsistent entry or document is found by the committee about the caste claim of the petitioner. However, she resisted the petition on the grounds that the petitioner has failed to prove the

affinity test as well as that he is native of the area mentioned in the Presidential Order. Therefore, she urged that the petition be dismissed.

7. We have considered the contentions of the learned counsel for the parties. Perused the order impugned, and the documents placed on record. It is to be noted that by filing a reply Respondent No. 2 Bank has resisted the claim and prayed for the dismissal of the petition.

8. A perusal of the record reveals that the petitioner in support of his claim has submitted as many as Sixteen documents, out of which, five documents are of the pre-constitutional era i.e. from 1931 to 1950 pertaining to his grandfather, great-great-grandfather, cousin great-grandfather, and cousin grandfather. In all five documents, the caste of the ancestors of the petitioner is mentioned as '*Thakur*' Scheduled Tribe, so also, in the rest of the documents, the caste of blood relatives of the petitioner is mentioned as '*Thakur*' Scheduled Tribe. It is settled law that the documents of the pre-constitutional era have greater probative value.

9. Apart from the above, to buttress the contentions, the petitioner has placed reliance on the following citations:

- (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)*.

10. The learned counsel for the petitioner argued that in view of the dictum laid down in the cases of *Jaywant Dilip Pawar*, *Tatya Vishnu Ranshur*, and *Amarnath s/o. Madanlal* (cited supra) the area restriction in the state of Maharashtra for the “*Thakur*” community has been removed by the Act No. 108 of 1976. Hence, the objection about area restriction raised by the respondent is no more *Res Integra*. 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* and *Anand s/o. Dattatraya Kumbhare*. (Cited supra.)

11. We have appreciated the contentions on the part of the petitioner in the backdrop of the 5 pre-Constitutional era entries. In such an eventuality, it is worth referring to the observations in para 20 of the judgment in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Others*, (AIR 2023 SC 1657), 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."

12. In the light of the discussion supra, it is evident that the petitioner has made out his case that he belongs to the 'Thakur' schedule Tribe. That being so, we deem it appropriate to allow the petition and proceed to pass the following order:

- (i) The Writ petition is allowed.
- (ii) The impugned order dated 19.12.2023, passed by respondent No. 1 Committee is hereby quashed and set aside.

(iii) It is declared that the petitioner belongs to the '*Thakur*' Scheduled Tribe.

(iv) The respondent No. 1 Committee is directed to issue a Caste Validity Certificate to the petitioner of belonging to '*Thakur*' Scheduled Tribe within a period of four weeks from receipt of a copy of this judgment.

13. Rule is made absolute in the above terms with no order as to costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Belkhede