



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

WRIT PETITION NO. 4524 OF 2023

Akash Sudhakar Pawar, Age 24 years,  
Occup.Student R/o At Post Chandur, Tq.  
and Dist.Akola.

**Petitioner**

**-Versus-**

Vice Chairman Jt. Commissioner,  
Scheduled Tribe Caste Certificate Scrutiny  
Committee,Amravati Division Old by pass  
Road, Chaprashipura Amravati.

**Respondent**

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Mr. A.P.Kalmegh, counsel for the petitioner.  
Mr. S.A.Ashirgarde,Addl.G.P.for the respondent.  
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**CORAM : A.S.CHANDURKAR AND  
VRUSHALI V. JOSHI, JJ.**

**DATE : 13<sup>th</sup> September, 2023**

**ORAL JUDGMENT (Per : A. S. Chandurkar, J.)**

1. **Rule.** Since the petitioner seeks to pursue further education, the Rule is made returnable forthwith and learned counsel appearing for the parties have been heard finally.

2. The challenge raised by the petitioner is to the order passed by the Scrutiny Committee on 27.06.2023 invalidating his claim of belonging to 'Thakur' Scheduled Tribe. *Inter alia*, the

petitioner has relied upon the documents dated 05.03.1919, 23.04.1930 and 16.11.1923 with the entry 'Thakur' to contend that his claim was liable to be upheld. These documents have been verified by the Vigilance Cell and the entries in question have been noticed. During the course of Vigilance enquiry, the documents of the year 1950 and 1951 with the entry 'Marathe' were found. In the reply to the report of the Vigilance Cell, the petitioner has denied his relationship with the said persons. The Scrutiny Committee, has principally rejected the claim of the petitioner on the ground that there is absence of affinity with 'Thakur' Scheduled Tribe.

3. On hearing the learned counsel for the parties and after perusing the record maintained by the Scrutiny Committee, we find the pre-independence documents of the year 1919, 1923, and 1930 of the predecessors of the petitioners have the entry 'Thakur'. These documents carry great probative value and are required to be given necessary weightage in this regard.

4. The reply filed by the petitioner to the report of the Vigilance Cell in clear terms denies the relationship with the

persons stated therein. Perusal of the family tree also indicates that 'Govinda' is not a member of the family. The Scrutiny Committee however, has not considered the reply to the report of the Vigilance Cell in the proper perspective. From the old documents, it is clear that the claim of the petitioner of belonging to 'Thakur' Community is substantiated.

5. As regards the aspect of affinity test held in the recent decision of the Hon'ble Supreme Court in the case of **Priya Pramod Gajbe Vrs. The State of Maharashtra and ors.** reported in **2023 SCC Online SC 909** that the same is not a litmus test and the overall material on record has to be taken into consideration. This is after considering the judgment of the Larger Bench in the case of **Mah. Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and ors.** reported in **2023(2)Mh.L.J 785**. We, therefore, find that from an overall consideration of the material on record the claim of the petitioner on the basis of pre-constitutional documents stands substantiated.

6. For the aforesaid reasons, the order passed by the Scrutiny Committee, on 27.06.2023 is set aside. It is declared that

the petitioner has proved that he belongs to 'Thakur' Scheduled Tribe. Within a period of three weeks of receiving copy of the judgment the Scrutiny Committee shall issue validity certificate to the petitioner. Till the validity certificate is received, the petitioner can rely upon the copy of the judgment to indicate that his claim of belonging to 'Thakur' Scheduled Tribe has been validated.

7. Rule is made absolute in the aforesaid terms. No costs.

(VRUSHALI V. JOSHI, J)

(A.S.CHANDURKAR, J)