



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

**WRIT PETITION NO. 4548 OF 2022**

Dev s/o. Raju Tayde,  
Age 19 years, Occ. Student,  
R/o. Plot No. 16, Flat No. 102,  
Pride Residency, Vanashree Nagar,  
Talegaon Dabhade, Mawal,  
District Pune

..... **PETITIONER**

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

Scheduled Tribe Caste Certificate  
Scrutiny Committee, Old By Pass,  
Chaprashipura, Amravati Division,  
Amravati, through its Vice Chairman  
/Jt. Commissioner,

..... **RESPONDENT**

Mr. A.P. Kalmegh, counsel for the petitioner,  
Ms. N.P. Mehta, Addl. GP for respondent/State

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

**DATE : 28.03.2024**

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

Rule. Rule is made returnable forthwith. Heard finally  
with the consent of the parties.

2. Challenge is to the order dated 11.03.2022, passed by the  
respondent - Scheduled Tribe Caste Certificate Scrutiny Committee,  
Amravati Division, Amravati (for short -“*the Committee*”), whereby

caste claim of the petitioner of belonging to '*Thakur*' Scheduled Tribe, came to be rejected.

3. Petitioner claimed to be belonging to the '*Thakur*' Scheduled Tribe. On 07.06.2019, Sub Divisional Officer, Murtizapur issued a caste certificate in his favour that he belongs to the '*Thakur*' Scheduled Tribe. The petitioner is pursuing his studies on the seat reserved for Scheduled Tribe category. Accordingly, he has submitted his caste certificate along with other documents for verification to the college. On 30.01.2021, the college forwarded the caste claim of the petitioner to the Committee for verification.

4. The Committee, being dissatisfied with the documents forwarded the case of the petitioner to the Vigilance Cell for detailed enquiry. Accordingly, on completion of the enquiry, the Vigilance Cell has submitted its report to the Committee. The Committee after considering the report as well as the statement of the petitioner and evaluating the material on record, invalidated the caste claim of the petitioner of belonging to the '*Thakur*' Scheduled Tribe, hence, the petitioner is before this Court.

5. Learned counsel Mr. A.P. Kalmegh for the petitioner has vehemently submitted that the petitioner along with the proposal had submitted Seventeen documents out of which, four documents were of the pre-constitutional era pertaining to his grandfather, great-grandfather, and cousin great-grandfather. The oldest entry of caste 'Thakur' is of the year 1912 and therefore, it is claimed that said documents have more probative value than the subsequent documents. He further canvassed that grounds mentioned in the petition may be considered as his submissions. To buttress his submissions, the learned counsel has further relied upon the following citations:

- i) Priya Pramod Gajbe..Vs.. State of Maharashtra and others (2023) SCC OnLine SC909;*
- ii) Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others (2023)(2)Mh.L.J. 785,*
- iii) Writ Petition No. 756/2022 (Gajanan Bansi Ingle Vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati Division, Amravati, and connected matters.*
- iv) Jaywant Dilip Pawar vs State of Maharashtra and others, 2018(5) All MR 975 (S.C.);*
- v) Anand vs Committee for Scrutiny and Verification of Tribe Claims and others, 2011(6) Mh.L.J. 919.*

6. *Per contra*, learned Addl. G.P. Ms. N.P. Mehta for the respondent strenuously argued that the document dated 25.10.1915 pertaining to the great-great-grandfather of the petitioner denotes that he belongs to the 'Bhat' caste. As such she submitted that, this anomaly would substantiate that the petitioner does not belong to the 'Thakur' Scheduled Tribe. Hence, she urged that passing of the order impugned is just and proper and no interference is required in it.

7. We have appreciated the submissions of learned counsel for the parties and have gone through the order impugned, citations relied upon, and documents placed on record.

8. On perusal of the documents on record, it seems that the petitioner in support of his claim has relied upon as many as Seventeen documents, out of which, four documents are from the pre-constitutional era from 1912 to 1949, wherein his great-grandfather and cousin great-grandfather's caste is mentioned as Thakur. Neither the Committee nor the Vigilance Cell have disputed those documents or their genuineness. However, the Committee has given undue importance to the document dated 25.10.1915 alleging

that said document pertains to the great-great-grandfather of the petitioner. However, the Committee as well as the Vigilance Cell are not certain about the name of the great-great-grandfather of the petitioner i.e. Madhav or Yadhav. In paragraph 7 of the impugned order, this anomaly is discussed. *Moreover*, the petitioner by filing an explanation has denied a relationship with the alleged Madhav as well as the entry to that regard. A perusal of the said document reveals that the father's name of the alleged Yadhav/Madhav is not mentioned in the document, and also in bracket it is mentioned as '*Bhat*'. Thus, said document appears to be vague/ambiguous. On the contrary, the documents dated 20.04.1925 and 02.07.1927 i.e. copies of the extract of School admission and leaving register show that the date of birth of Krushna Yadav is 16.02.1912 and his caste is mentioned as '*Thakur*'. It is to be noted that these documents are not disputed by the Committee or vigilance cell but were discussed in para 2 of the reasoning part of issue no. 1. These entries themselves show that since 1912 and 1916 caste of Krushna Yadav – i.e. cousin great-grandfather and Vasudeo Yadav the great-grandfather of the petitioner is shown as '*Thakur*'. Thus, in our opinion, the entry of the year 1912 along with other documents categorically shows that the petitioner and his ancestors belong to

the 'Thakur' caste. The entry relied upon by the Committee is vague as the same does not depicts the name of his great-great-grandfather. Therefore, it would not be proper to discard the claim of the petitioner based on the vague and ambiguous document. *Besides*, the other four pre-constitutional documents also have more probative value. Hence, disregarding these documents and passing the impugned order is unjust and improper. As such the same is not sustainable in the eyes of law.

9. In the aforesaid background, having regard to the pre-Constitutional entries of the 'Thakur' Scheduled Tribe, it is claimed that the petitioner's claim for validity ought not to have been rejected when the relationship with the aforesaid members is not in dispute. *Besides*, in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* (cited supra) the Hon'ble Apex Court in paragraph 20, held 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<sup>1</sup>. 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."*

10. Similarly, in the case of **Jaywant Dilip Pawar** (cited supra), the Hon'ble Apex Court has held that the question of area restriction does not arise as the same has been removed. *Likewise*, the question of the affinity test is considered in the case of **Anand** (cited supra) and the Hon'ble Apex Court has held that "*the affinity test cannot be termed as a litmus test.*"

11. Having considered the facts and law laid down by the Hon'ble Apex Court, it reveals that the above-referred documentary entries of the year 1912 onwards speak about the ancestors of the petitioner who belong to the '*Thakur*' community. Said entries pertain to various public documents such as school records and registers of birth and death. Pre-constitutional documents have greater probative value and therefore, based on one document which is uncertain about the name of the ancestor of the petitioner as Yadhav or Madhav, it would not be proper to discard the entries in other pre-constitutional documents. *In addition*, said documents do

not vitiate the claim of the petitioner as he belongs to the ‘*Thakur*’ Scheduled Tribe.

12. In view of the above discussion, we are of the opinion that the petitioner has proved that his ancestors belonged to the ‘*Thakur*’ Scheduled Tribe. The finding recorded by the Committee based on a single vague/ambiguous document would not sustain in the eyes of law and the same is liable to be quashed and set aside.

13. In the light of the above discussion, we deem it appropriate to allow the petition, accordingly, we allow the petition and pass the following order:

- i) The impugned order dated 11.03.2022, passed by the respondent – Committee is hereby quashed and set aside.
- ii) It is hereby declared that the petitioner belongs to the ‘*Thakur*’ Scheduled Tribe.
- iii) The Respondent Committee is directed to issue validity certificate in favour of the petitioner that he belongs to the ‘*Thakur*’ Scheduled Tribe within a period of four weeks from the date of production of this order.



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

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Belkhede