



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

Writ Petition No.3163/2022

1. Ku. Dhanvi d/o Sharad More,  
aged 24 years, occ. Studying in M.B.B.S.

2. Sharad Niranjana More,  
aged 58 years, retired from service,  
both residents of 140, Shahu Nagar,  
Besa Road, Nagpur

.... Petitioners.

*-Versus-*

1. The Scheduled Tribe Caste Certificate Scrutiny  
Committee, through its Member Secretary,  
Chaprasipura, Amravati.

2. Terna Medical College  
through its Dean, Sector 12, Phase 2, Nerul (West),  
Mumbai- 400 706.

3. Maharashtra University of Health Sciences,  
through its Registrar, Wani Road, Mashrul, Nashik

4. Controller of Legal Meteorology, 7th floor,  
fountain Telecom, Building No.1, Hutatma Smarak Chowk,  
M.G. Road, Mumbai 400 001.

5. State of Maharashtra,  
through its Secretary, Department of Food and  
Civil Supplies, Mantralaya, Mumbai 400 032

....Respondents.

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Mr. R.S. Parsodkar, Adv. for petitioners.  
Mr. Abhijit Deshpande, Adv. for resp. no.3.  
Mr. H.D. Marathe, AGP for resp. nos. 1 and 5.  
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Coram : Nitin W. Sambre & Abhay J. Mantri, JJ.  
Dated : 27-02-2024.

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

**Rule.** Rule is made returnable forthwith. Heard finally with the consent of learned Counsel for the parties.

2. The challenge in this petition is to the common order dated 18-05-2022, passed by the respondent no.1-Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for short - *the 'Scrutiny Committee'*), thereby invalidating the claim of the petitioners that they belong to '*Thakur*' Scheduled Tribe category, have preferred this petition.

3. Petitioner no.1 is the daughter of petitioner no.2. They belong to the '*Thakur*' Scheduled Tribe. On 06-06-2015, the Sub-Divisional Officer, Akola, issued a certificate in favour of petitioner no.1 that she belongs to the '*Thakur*' Scheduled Tribe. Similarly, on 16-07-1979, Executive Magistrate, Akola issued a caste certificate in favour of petitioner no.2 that he belongs to the '*Thakur*' Scheduled Tribe.

4. On 31.07.2013, petitioner no.2 applied to respondent no.1-Scrutiny Committee through the Assistant Controller, Department of Legal Meteorology for verification of his tribe claim as of the '*Thakur*' Scheduled Tribe. Likewise, petitioner no.1 Dhanvi has also applied to the Scrutiny Committee through the Principal of Science College, Nagpur for

verification of her tribe claim as of the '*Thakur*' Scheduled Tribe. Pursuant to the same, respondent no.1-Scrutiny Committee examined their tribe claims and being dissatisfied with the documents produced on record, handed over their cases to the Police Vigilance Cell for detailed enquiry on 31-07-2015 and 12-08-2015. The Vigilance Cell conducted an enquiry and submitted its report to the Scrutiny Committee on 13-09-2017. However, respondent no.1-Scrutiny Committee has rejected their tribe's claims.

5. The learned Counsel for the petitioners vehemently argued that the petitioners had produced as many as 38 documents in support of their tribe claims. According to him, the documents at serial nos. 7 to 10, 33, 35, and 38 are of the pre-constitutional era and belong to their ancestors. However, the Scrutiny Committee has not considered these documents in its proper perspective. He further canvassed that the son of petitioner no.2 and other cousins brother and sister of petitioner no.1 have obtained caste validity certificates as they belong to the '*Thakur*' Scheduled Tribe. Those certificates were produced before the Scrutiny Committee. As per the law laid down by the Division Bench of this Court in the case of *Apoorva d/o Vinay Nichale vs Divisional Caste Certificate Scrutiny Committee No.1 and others* (2010(6) *Mh.L.J.* 401), the Scrutiny Committee was bound to issue caste validity certificate in favour of the petitioners. However, the Scrutiny Committee has ignored the validity certificates issued to their relatives and rejected their tribe

claims. To buttress his submission, he has relied upon the judgment of the Hon'ble Apex Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs State of Maharashtra and others*, reported in *AIR 2023 SC 1657*, the judgment of Division Bench of this Court in the case of *Apoorva Nichale* (supra) as well as a judgment passed in the case of Purva and Prathmesh, sister and brother of petitioner no.1, in Writ Petition No.877/2023. Therefore, it urged that in view of the law laid down in the aforesaid judgments, the petitioners are entitled to get validity certificates in their favour.

6. Learned Assistant Government Pleader, resisted the claim of the petitioners and cited a bunch of authorities as under:-

- (a) *Dattu Namdeo Thakare vs State of Maharashtra and others* (2009 LawSuit (Bom.) 1639)
- (b) *Yogita d/o Anil Sonawane vs State of Maharashtra and others* (2017 (1) Mh.L.J. 643.
- (c) *Dattatraya s/o Shriram Ingle vs the Committee for Scrutiny and Verification of Tribal Claims and another* (2016(4) All MR 404)
- (d) *Raju Ramsing Vasave vs Mahesh Deorao Bhivapurkar* (2008 (9) SCC 54.
- (e) *Kumari Madhuri Patil and another vs Additional Commissioner, Tribal Development, and others* (1994) 6 SCC 241
- (f) *Chetan Yuvraj Thakur vs State of Maharashtra And others*, dated 21-04-2011 (Writ Petition No.2791 of 2011)

- (g) Rajesh s/o Yadavrao Shankpale vs State of Maharashtra and others (2000(1) Mh.L.J. 168.
- (h) Dinesh Ramesh Thakur vs State of Maharashtra and others (2012(4) Mh.L.J. 396.
- (i) Palghat Jilla Thandan Samudhaya Samrakshna Samithi and another vs State of Kerala and another (1994) 1 SCC 359.
- (j) State of Maharashtra and others vs Ravi Prakash Babulalsing Parmar and another (2007) 1 SCC 80.
- (k) Murlidhar Ramkrishna Gathe vs State of Maharashtra and others (W. P. No.2748/2000 dated 18-01-2007).
- (l) State of Maharashtra and others vs Sunil Murlidhar Thakur and another (Civil Appeal No.4088/1998).
- (m) Chhaya d/o Jasvantsingh Hajari and others vs Committee for Scrutiny and Verification of Tribe claims, Amravati (2008 Law Suit (Bom.) 1403)
- (n) Vijaykumar and others vs State of Maharashtra and others (2010 Law Suit (SC) 1221.

7. In view of the law laid down in the case of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra), the learned Assistant Government Pleader has not much more emphasized on the dictum laid down in the aforementioned bunch of citations but submitted to the order of the Court.

8. We have considered the rival submissions of the learned Counsel for the parties. Perused the documents as well

as the validity certificate issued in favour of the real brother of petitioner no.1 and cousin brother and sister of petitioner no.1.

9. It emerges that the petitioners have produced seven documents of the pre-constitutional era. These documents have greater probative value.

10. It reveals that the petitioners have produced as many as 38 documents in support of their claim. Except for document serial no.4 in all those documents the caste of the ancestors of the petitioners is shown as '**Thakur**' only. Those documents pertain to the grandfather, great-grandfather, great-great-grandfather, and cousin great-great-grandfather of petitioner no.1. The School Admission register extract (Document at sr. No. 14) of the year 1873 speaks about ancestors of the petitioners belonging to the '**Thakur**' community. Likewise, the document at serial no.10 i.e. Birth extract of the great-grandfather of petitioner no.1 reflects that he belongs to the '**Thakur**' community. Neither the respondent no.1-Scrutiny Committee nor Vigilance Cell disputed the existence and genuineness of those documents or entries made therein. Therefore, there is no reason to disbelieve those documents.

11. It further seems that the petitioners have produced a caste validity certificate issued in favour of Govind Sharad More, real brother of petitioner no.1 and son of petitioner no.2, as well as cousins of petitioner no.1 Mohan Manohar More, Amol Damodhar More, and Kamlakar Rajaram

More. Therefore, as per the dictum laid down in the case of *Apoorv Nichale* (supra), respondent no.1-Scrutiny Committee ought not to refuse the same status to a blood relative who applies. But respondent no.1-Scrutiny Committee was bound to issue a caste validity certificate in favour of the petitioners.

12. It is to be noted that during the pendency of the present case, this Court has directed the respondent No. 1 Scrutiny Committee to issue a caste validity certificate in favour of Ms. Purva and Prathamesh, daughter and son of Kishore More, who is the real brother of petitioner no.2 in Writ Petition No.877/2023 that they belong to the '*Thakur*' Scheduled Tribe.

13. The Hon'ble Apex Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* (supra) has categorically held that "*the overall material on record has to be considered and the report of the Vigilance Cell cannot be treated to be the sole basis for disregarding such claim. Likewise, an affinity test cannot be treated as a litmus test particularly; when the Pre-Constitutional documents exist and are placed on record. Moreover, the said test cannot be said to be conclusive to find out whether the petitioner belongs to the 'Thakur' Scheduled Tribe or not*".

14. In the aforesaid background, it seems that the Scrutiny Committee without considering the pre-constitutional documents on record and the caste certificates issued to the real brother of petitioner no.1 and this court has declared that cousin

brother and sister of petitioner no. 1 that they belong to the ‘*Thakur*’ schedule tribe, has rejected the tribe claim solely on the ground that the petitioners have failed to prove the affinity test. In fact, the Scrutiny Committee has failed to consider the details furnished by the petitioners regarding their caste/tribe and ignored the pre-constitutional era documents which have more probative value. So also the Scrutiny Committee has not considered the law laid down in the case of *Apoorva Nichale* (supra) and *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* (supra) and passed the impugned order.

15. Having considered the material on record, it seems that the authorities relied on by the learned Assistant Government Pleader in support of his submissions are not helpful. On the contrary, the law laid down in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* (supra) and *Apoorva Nichale* (supra) is applicable in the case at hand.

16. Thus, to sum up, it clearly reveals that the petitioners in support of their claim have relied upon the document of his great-great-grandfather, wherein the caste of their great-great-grandfather was mentioned as ‘*Thakur*’. The said document is the oldest one of the year 1873. Therefore, it has a greater probative value than the other documents. Secondly, the petitioners have produced caste Validity Certificates issued in favour of their blood relatives, and therefore as per the law laid down in the case of *Apoorva d/o Vinay Nichale* (supra), the



petitioners' claim ought not to have been refused and the same status shall be awarded to the petitioners that they belong to the '*Thakur*' Scheduled Tribe. Likewise, this Court in the writ petition mentioned above has passed the orders by directing the Scrutiny Committee to issue Validity Certificates in favour of the blood relatives of the petitioners. As a result, it appears that the findings given by the respondent-Scrutiny Committee are contrary to the documents on record and the law laid down by this Court in the cases of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti and Apoorva Nichale* (supra), as well as the orders passed in writ petitions mentioned above. Therefore, based on the said finding, the order cannot be sustained in the eyes of the law and the same is liable to be quashed and set aside.

17. For the aforesaid reasons, we deem it appropriate to allow the petition in the following terms :-

- (a) The impugned common order dated 18-05-2022 passed by respondent no.1-Scrutiny Committee is hereby quashed and set aside.
- (b) It is declared that the petitioners have proved that they belong to the '*Thakur*' Scheduled Tribe category.
- (c) Within four weeks from the receipt of a copy of this judgment, respondent no.1- Scrutiny Committee shall issue Caste Validity Certificates in favour of the petitioners.

(d) As a sequel, respondents no.4 and 5 are directed to release the retiral benefits to petitioner no.2 Sharad More on his retirement as permissible in law.

(e) The respondent nos. 2 and 3 shall take note of this order and act accordingly.

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

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J)

*Deshmukh*