



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

WRIT PETITION NO. 8022 OF 2022

Ketan s/o. Ashok Gite,
Age 29 yrs, Occ. Student,
R/o. Rajeshwar Nagar,
Old Ajispur Road, Buldhana

.....PETITIONERS

...VERSUS...

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

2. Union of India,
Through its Secretary, the Ministry of
Railways, Rail Bhavan,
Raisina Road, New Delhi,

3. Railway Recruitment Cell,
South Central Railway SCR,
Secunderabad, 1st Floor, C Block,
Central Railway, Rail Nilayam,
Secunderabad, Telangana 500 025
through its Chairman,

.....RESPONDENTS

Mr. A.P Kalmegh, Advocate for the petitioner,
Mr. S.M. Ukey, Addl. GP for Respondent No. 1/State,
Mr. S.A. Chaudhari, counsel for respondent Nos. 2 and 3.

CORAM:- NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.
DATE : 05.03.2024

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

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

2. The challenge is raised to the order dated 2.9.2022, passed by respondent No. 1 – Scheduled Tribe Caste Scrutiny Committee, Amravati (for short, “*the Scrutiny Committee*”) invalidating the petitioner’s claim of belonging to Thakur Scheduled Tribe.

3. It is a case of the petitioner that he belongs to the ‘*Thakur*’ Scheduled Tribe. On 16.11.2017, the Sub-Divisional Officer, Malkapur issued a caste certificate in his favour that he belongs to the ‘*Thakur*’ Scheduled Tribe. The petitioner was pursuing his study and availed the benefit prescribed for the reserved category candidate as he belongs to the ‘*Thakur*’ Scheduled Tribe. He submitted his caste certificate along with the necessary documents to the Scrutiny Committee for its verification.

4. The Scrutiny Committee, being dissatisfied with the documents produced by the petitioner, referred his case to the Vigilance Cell for detailed inquiry under Sub-Rule 2 of Rule 12 of Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jati), Nomadic Tribes, Other Backward Classes, and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. The Vigilance Cell collected documents and conducted the detailed enquiry, and submitted its report to the Scrutiny Committee on 21.1.2021. Considering the report and evaluating the material placed on record, the Scrutiny Committee, by the impugned order has rejected the claim of the petitioner that he belongs to the 'Thakur' Scheduled Tribe.

5. Mr. A.P. Kalmegh, the learned advocate for the petitioner has vehemently argued that the petitioner, in support of his claim has produced 14 documents from the pre-independence era indicating that the petitioner belongs to the 'Thakur' Scheduled Tribe, however, same has not been considered by the Scrutiny Committee and passed the

impugned order which is contrary to the settled position of law.

6. On the contrary, learned Addl.GP Mr. S.M. Ukey argued that during vigilance enquiry, the Vigilance Officer obtained the document of the year 1917 which denotes that the petitioner's great-grandfather belongs to the 'Thakur' alias 'Bhat' caste. That apart, he submitted that the Scrutiny Committee has rejected the claim of the relatives of the petitioner, and he supports the order impugned.

7. We have appreciated the rival submissions of the parties and perused the impugned order as well as documents filed on record.

It emerges that the petitioner has produced as many as 31 documents, out of which, 14 documents are of the pre-independence era which depicts that the great-great-grandfather, great-great cousin grandfather, grandfather, and great-great-grandfather of the maternal side belongs to the 'Thakur' caste.

The Vigilance Cell as well as the Scrutiny Committee has relied upon the documents of the year 1917 in respect of the revenue entry of the great-great-grandfather of the petitioner, wherein his caste is mentioned as 'Thakur alias Bhat'. The Scrutiny Committee upon considering said single document has drawn an adverse inference against the claim of the petitioner. The Scrutiny Committee has ignored to consider the documents dated 1.2.1869, 7.7.1888, 2.7.1910, and 4.8.1917 of the great-great-grandfather and great-grandfather which clearly indicates that they belong to the "*Thakur*" caste. These documents are earlier to the point of the document of the year 1917, on which, the Scrutiny Committee has relied upon. These documents have greater probative value than a document of the year 1917.

8. This Court as well as the Hon'ble Apex Court in various judgments have held that the oldest pre-constitutional documents have greater probative value than the subsequent documents. Without considering the settled proposition of law laid down by the Hon'ble Apex Court, the Scrutiny Committee

has drawn adverse inferences against the petitioner's claim which appears contrary to the documents on record and settled position of law. Moreover, the said entry indicates “Thakur alias Bhat”. It does not have independent entry as Bhat and therefore, the conclusion drawn by the Scrutiny Committee is not sustainable in the eyes of law.

9. *Furthermore*, it appears that initially, the Scrutiny Committee rejected the claim of Ms. Rohini who is the cousin sister of the petitioner. Ms. Rohini has challenged the said order before this Court in Writ Petition No. 5652/2021, and this Court on 31.1.2022, has set aside the order of the committee and held that Ms. Rohini belongs to ‘Thakur’ Scheduled Tribe and directed the Scrutiny Committee to issue validity certificate in her favour. The said order still subsists. The petitioner has also produced the caste validity certificate issued in favour of his mother Mrs. Sangita Kashinath Thakur by the Scrutiny Committee, Amravati Division, Amravati. As such, the learned advocate for the petitioner has urged that in view of the law laid down in *Apoorva d/o. Vinay Nichale Vs. Divisional Caste*

Certificate Scrutiny Committee No. 1 and Others, reported in *2010(6) Mh.L.J. 401*, the petitioner is entitled to the caste validity in his favour that he belongs to the ‘Thakur’ Scheduled Tribe. Considering the documents available on record and the settled position of law, we find substance in the contentions of the learned counsel for the petitioner.

10. Having considered the aforesaid discussion, it seems that the petitioner in support of his claim has produced the documents dated 1.2.1869, 7.7.1888, 2.7.1910, and 8.4.1917 and other documents prior to the document on which the Scrutiny Committee has relied upon to negate the claim. It is to be noted that neither the Vigilance Cell nor the Scrutiny Committee have disputed those documents. That being so, we have no hesitation to hold that these four documents along with the other ten pre-independence era documents categorically indicate that the ancestors of the petitioner belong to the ‘Thakur’ Scheduled Tribe. In such an eventuality, we do not find substance in the findings of the Scrutiny Committee that the petitioner has failed to prove that he belongs to the ‘Thakur’

Scheduled Tribe.

In view of the above discussion, we are of the considered opinion that the petitioner belongs to the ‘Thakur’ Scheduled Tribe, therefore, we deem it appropriate to pass the following order:

(i) The impugned order dated 2.9.2022, passed by respondent No. 1 Scrutiny Committee is hereby quashed and set aside;

(ii) It is hereby declared that the petitioner belongs to the “*Thakur*” Scheduled Tribe.

(iii) Respondent No. 1 Scrutiny Committee is directed to issue a caste validity certificate in favour of the petitioner within a period of four weeks from the receipt of this order.

11. Rule made absolute in the aforesaid terms. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Belkhede