



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

**WRIT PETITION NO. 5577 OF 2023**

Ku. Kiran Ramdas Pawar  
Aged about 21 years, Occ. Student,  
R/o. Dattuwadi, near Nagoba Mandir,  
Amravati  
....**PETITIONER**

**...VERSUS...**

1. The Scheduled Tribe Certificate  
Scrutiny Committee at Amravati,  
Sana Building, Chaprashipura,  
Camp, Amravati, Through its  
Member Secretary

2. Jaywant College of Engineering and  
Polytechnic, Kille Mandira Gadh,  
Ta. Walwa, Dist. Sangli Through  
its Principal

....**RESPONDENTS**

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Shri Sandeep Marathe, Advocate for petitioner  
Ms Deepali Sapkal, AGP for respondent No.1  
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**CORAM : VINAY JOSHI AND**  
**SMT. M.S. JAWALKAR, JJ..**

**DATE OF RESERVING THE JUDGMENT : 03/07/2024**  
**DATE OF PRONOUNCING THE JUDGMENT : 23/07/2024**

**JUDGMENT (PER : SMT. M.S. JAWALKAR, J.)**

Heard.

2. **Rule.** Rule made returnable forthwith.

3. By consent of learned Counsel for the parties, the matter is taken up for final hearing at the stage of admission.

4. The petitioner challenges the impugned order dated 07/07/2023 passed by the Scheduled Tribe Certificate Scrutiny Committee at Amravati (in short, 'Scrutiny Committee), thereby rejecting petitioner's claim of belonging to 'Thakur' Scheduled Tribe. The petitioner is taking education in respondent No. 2 - College. She had submitted application for grant of caste validity certificate through respondent No.2. Along with the application, the petitioner had filed various pre-Independence documents.

5. On 11/01/2023, respondent No.1 Scrutiny Committee had served upon petitioner the copy of police

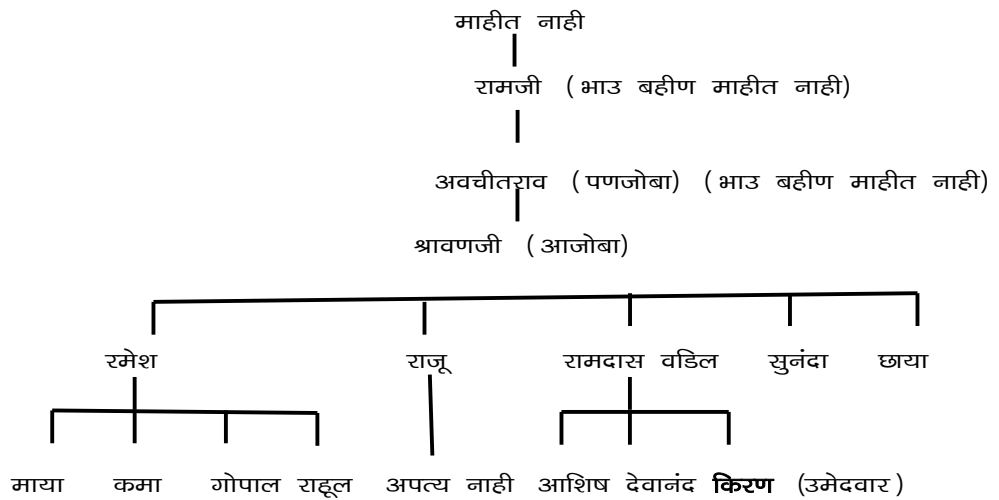
vigilance cell report and directed her to submit explanation. The police vigilance cell collected **kotwal entries** of year 1917-1948, related to one **Janu Ramji** and **Baju Ram** alleging that they are great grandfather of the petitioner and their caste is mentioned as '**Marathe**' and '**Bhat**' respectively. The Research Officer noted that entries related to her close relative found to be of 'Marathe' and of 'Bhat' Caste. The petitioner submitted her reply to the police vigilance cell report. The petitioner denied the report and submitted that the persons whose documents produced as belonging to 'Marathe' and 'Bhat' caste are not related to her. The respondent Scrutiny Committee by its impugned order dated 07/07/2023 rejected the petitioner's claim belonging to 'Thakur' Schedule Tribe stating that there are adverse entries, the petitioner failed to prove the affinity to the 'Thakur' Tribe, her family is from the village Kutasa, Tah. Akot Dist. Akola which is outside the earlier restricted area and she failed to comply with the parameters laid

down in the Article 342 of the Constitution of India. Hence the aforesaid impugned judgment is the subject matter of challenged in the present petition.

6. The Petitioner has submitted the following old documents before the Scrutiny Committee:-

Name	Relation	Document	Date of document	Caste
Shrawan Awachit Pawar	Petitioner's Grandfather	School Leaving Certificate	22/07/1943	<b>Thakur</b>
Awachit Ramji	Petitioner's Great Grandfather	Death Entry	20/10/1948	<b>Thakur</b>
Shrawan Awachit Pawar	Petitioner's Grandfather	School Leaving Certificate	01/07/1946	<b>Hindu (Thakur)</b>

### FAMILY TREE



7. It is the contention of the learned counsel for the petitioner that the respondent Scrutiny Committee erroneously neglected the pre-Independence documents of her forefathers belonging to 'Thakur' tribe. The Scrutiny Committee has unlawfully relied upon the police vigilance cell report and has given more importance to documents collected by the police vigilance cell which do not correlate with the petitioner i.e. with the persons namely Janu Ramji and Bajuram who apparently belong to other caste. The entries in government record of the period of 1943-1948 show the petitioner's grandfather and great grandfather belong to 'Thakur' tribe. The Scrutiny Committee has thus committed patent illegality in giving greater weightage to the documents collected by the police vigilance cell than those placed on record by the petitioner.

8. It is further contended that the Scrutiny Committee failed to correlate how the entries of the two

alleged brothers Janu Ramji and Bajuram are genealogically related to petitioner. In absence of this proof, the Scrutiny Committee ought not to have relied upon the documents collected by the police vigilance cell. It is submitted that the Scrutiny Committee has deliberately adduced those documents to deny the petitioner's claim to 'Thakur' Tribe and passed an impugned order which needs interference by this Court.

9. Learned Counsel for petitioner relied on following citation:-

1. *Shri Chandrakant S/o Vishnu Ahirkar Vs. Schedule Tribe Caste Certificate Scrutiny Committee and others, Writ Petition No. 3164/2022, dated 09/05/2024*
2. *Ekta Mahendrasing Thakur Vs. Director of Medical Education and Research, CET Cell, Mumbai and others, Writ Petition No. 11954/2021 dated 19/12/202*

3. *Krushna S/o Kautik Deore Vs. Director of Medical Education and Research, CET Cell, Mumbai and others, Writ Petition No. 803/2021, dated 22/01/2021*
4. *Dipak S/o Vasant Thakur Vs. The State of Maharashtra, Department of Tribal Development, Mantralaya, Mumbai and others, Writ Petition No. 8668/2019, dated 21/07/2023*
5. *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others, 2023(2) Mh.L.J. 785*

10. It is the contention of the respondent's counsel that in petitioner's case, the oldest entry was found to be recorded as 'Marathe' of the year 1917, along with the other documents, which pertains to pre-Constitution period and having great importance while deciding the tribe claim of the petitioner. Relying upon these documents, the Scrutiny Committee has invalidated the tribe claim of the petitioner on 07/07/2023. The Scrutiny Committee has also granted

ample opportunity to the petitioner to prove her claim, but she has failed to do so. Hence, the order passed by the answering respondent dated 07/07/2023 is just, proper and legal, hence, it needs to be upheld by this Court.

11. We have heard both the parties at length and perused the record and proceedings of the Scrutiny Committee placed on record by learned AGP. It appears that the Scrutiny Committee invalidated the caste claim of the petitioner on the ground that, the Vigilance Cell procured one document of 1917 of one Janu S/o. Ramji Marathe which is death extract of Janu. However, Janu's name does not appear in the family tree. Janu's father is Ramji. Though Ramji is shown in the family tree, however, there is no son namely Janu. Thus, he cannot be related to the petitioner. There is common entry of 1932 in respect of one Baiju S/o. Shankar Bhat. Neither Baiju nor Shankar Bhat has found place in family tree of the petitioner. The



document of 1948 in respect of death of Avchit Ramji Thakur clearly shows the entry as of 'Thakur'. Another extract of School Register which is placed on record, is in respect of Shrawan Avchit Pawar. His date of birth is shown as 01/07/1936 and date of admission in school is shown as 22/07/43 and his tribe entry is shown as 'Thakur'. There are only two entries which are showing the caste as 'Marathe' and 'Bhat', however, it is specifically denied by the petitioner that they are in her relation, and even going through the family tree, their names do not find place in it. Thus, the Scrutiny Committee has to establish that, how they are in relation with the petitioner. Their relation with the petitioner has to be explained by the Scrutiny Committee.

12. The another ground for rejection of the validity certificate is affinity test and area restriction. The learned counsel for the petitioner relied on *Shri Chandrakant S/o.*

***Vishnu Ahirkar*** (supra), in support of his contention that, there is no applicability of area restriction or affinity test. In the said judgment, this Court held that, “*as per the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 (Act No. 108 of 1976) published in the Gazette, the area restriction is removed in respect of the ‘Thakur’ caste.*” Similarly, the reliance is placed on ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (supra), wherein the Hon’ble Apex Court held that the affinity test cannot be termed as a litmus test, which reads as under:-

*“(b) for the reasons which we have recorded, affinity test cannot be conclusive either way. When an affinity test is conducted by the Vigilance Cell, the result of the test along with all other material on record having probative value will have to be taken into consideration by the Scrutiny Committee for deciding the caste validity claim; and*

*(c) In short, affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of correctness of a caste or tribe claim in every case.”*

13. The old documents prior to Independence era are having great probative value and there the caste is mentioned as 'Mana' in the said matter. Similar view is taken in *Krushna S/o. Kautik Deore* (supra) and in *Dipak S/o. Vasant Thakur* (supra) that, the affinity test is not the litmus test specifically when there are documents of pre-Independence era available on record.

14. So far as, 'Hindu' mentioned along with 'Thakur' which entry have weighed heavily in the mind of Scrutiny Committee while passing the impugned order. The learned counsel for the petitioner placed reliance on the judgment passed in *Ekta Mahendrasing Thakur* (supra) wherein this Court held that, "*the schedule of the Constitution nowhere provides 'Hindu-Thakur' as tribe.*" It is, therefore, debatable whether this entry can be called as contrary entry. Needless to state that 'Hindu' is not a caste but it is a religion. Therefore, the importance is given by the respondent – Scrutiny Committee to discard the petitioner's claim since

the word 'Hindu' is found in two entries, which is of the year 1975 and one is of the year 1946. This Court in *Ekta Mahendrasing Thakur* (supra) held that, "*thus rejection of the petitioner's claim on the issue of entry such as 'Hindu Thakur' is unsustainable in the eye of law*". As such, in view of the SC and ST Orders (Amendment) Act, 1976 removes area restriction placed by the Order of 1950.

15. While discarding the claim of the petitioner, the Scrutiny Committee conveniently ignored the oldest entres of 1943 and 1948 wherein the petitioner's forefathers were shown belonging to 'Thakur'. As such, the order passed by the respondent - Scrutiny Committee is perverse, erroneous and liable to be set aside. Accordingly, we proceed to pass the following order:-

### **ORDER**

- 1) The Writ Petition is allowed.
- 2) The impugned order dated 07/07/2023 passed by respondent no. 1 / The Scheduled Tribe Certificate Scrutiny

Committee, Amravati in Case No. सआ/अजप्रतस/अम/5/501/  
Edu/012022/195044 in the matter of the petitioner - Ku.  
Kiran Ramdas Pawar, is hereby quashed and set aside.

3) It is held and declared that the petitioner has duly  
established that she belongs to 'Thakur' Scheduled Tribe.

4) The respondent no. 1/Scrutiny Committee is hereby  
directed to issue validity certificate to the petitioner, as she  
belongs 'Thakur' Scheduled Tribe, within a period of four  
weeks from passing of this order.

Rule is made absolute in above terms. No costs.

**JUDGE**

**JUDGE**

*B.T.Khapekar*