



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

**WRIT PETITION NO. 3713/2023**

**Mayur S/o Ramkrushna Thigale,**  
Aged about 28 years, Occ. Service,  
R/o. Abbaspura, Tq. Achalpur, District Amravati

... PETITIONER(S)

**// VERSUS //**

- (1) **The Scheduled Tribe Caste Certificate Scrutiny Committee,**  
Through its Member Secretary and Deputy Director,  
Sanna Building, Opp. Govt. Rest House,  
Camp Amravati 444 601
- (2) **Life Insurance Corporation of India,**  
Amravati Division, Through its  
Divisional Manager, Divisional Office  
at Jeevan Prakash Shrikrushna Peth,  
Near Dafrin Hospital, Amravati 444 606  
E-mail:- [sdm.amravati@licindia.com](mailto:sdm.amravati@licindia.com)

.... RESPONDENT(S)

Shri A. Deshpande, Advocate for the Petitioner(s)  
Ms. T.H. Khan, AGP for the Respondent/State  
Shri S.P. Kothari, Adv h/f Shri P.P. Kothari, Adv for Respondent  
No. 2

**CORAM : VINAY JOSHI & SMT. M.S. JAWALKAR, JJ.**  
**JULY 09, 2024**

**ORAL JUDGMENT :- (PER: VINAY JOSHI, J.)**

(1) **RULE.** Rule made returnable forthwith. Heard finally by consent of learned Counsel for the respective parties.

(2) The Petitioner claims to be belonging to 'Halbi' Scheduled Tribe which is enlisted at Serial No. 19 in the Constitution (Scheduled Tribe) Order, 1950. The Petitioner was appointed on the post of 'Assistant' in the LIC, Amravati Division on the basis of the caste certificate issued by the Sub-Divisional Officer, Achalpur. The Petitioner's caste claim was forwarded by his Employer on 06/02/2020 for caste verification and validation. The Petitioner submitted the supporting documents to his caste claim. The Respondent No. 1 - Scrutiny Committee, after verification by the Police Vigilance Cell, issued Show Cause Notice to the Petitioner which the Petitioner replied. Being aggrieved and dissatisfied by the documents produced by the

Petitioner and on the basis of the vigilance enquiry, the Respondent No. 1 – Scrutiny Committee has invalidated the Petitioner’s caste claim vide order dated 06/06/2023. The invalidation is on account of dissatisfaction of the documents and failure in affinity test.

(3) Learned Counsel for the Petitioner, while assailing the impugned order, would submit that though the Petitioner has produced various pre-constitutional documents showing his caste entry as ‘Halbi’, the Respondent No. 1 – Scrutiny Committee has not considered the same. It is argued that only on the basis of two adverse documents of the years 1951 and 1971, the caste claim of the Petitioner was rejected by sidelining the oldest documents. It is argued that the entry of caste in the birth record of the daughter born to the Petitioner’s grandfather’s was mistakenly recorded as ‘Halvi’ which is weighed to the Respondent No. 1 – Scrutiny Committee. According to the Petitioner, there is no such caste namely ‘Halvi’.

(4) Learned AGP has resisted the Petition by contending that the Petitioner's caste claim was invalidated as there were adverse entries of castes 'Koshti' and 'Hindu Halbi'. It is submitted that the Vigilance Cell Report does not support the Petitioner's caste claim.

(5) The Petitioner has produced in all 12 documents in support of his caste claim. The Petitioner has mainly relied on the oldest document of the year 1921 which is a birth extract of the Petitioner's great grandfather's son showing the entry of 'Halbi' caste. To the next, reliance is placed on the school leaving certificate of the Petitioner's grandfather - Mahadev Mithuji Thigale dated 15/03/1926 which shows the caste entry as 'Halbi'. The third document which the Petitioner relies is a birth extract of a child born to Mahadev in the year 1945. The said extract shows the caste entry as 'Halvi' which perhaps weighed the Respondent No. 1 - Scrutiny Committee to reject the claim of the Petitioner. Undisputedly, there is no caste as 'Halvi' and thus the Petitioner's submission carries substance. Though the

Vigilance Cell has collected adverse document of the year 1951 bearing entry of 'Koshti' caste, however, it is settled position that the oldest documents would have primacy. The Vigilance Cell has not disputed the existence of two oldest documents of the years 1921 and 1926 which we have referred above. We see no reason to discard these old entries genuineness of which has not been doubted. The Respondent No. 1 - Scrutiny Committee ought to have weighed the oldest documents in absence of allegation of tampering or fraud.

(6) In so far as the affinity test is concerned, learned Counsel for Petitioner relied on the decision of Supreme Court in case of **Anand vs. Committee for Scrutiny and Verification of Tribe Claim and others - 2011[6] Mh.L.J. 919**, wherein, it is held as under:

"18. .. (i) ..

(ii) *While applying the affinity test, which focuses on the ethnological connections with the scheduled tribe, a cautious approach has to be adopted. A few decades ago,*

*when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. Hence, affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Nevertheless, the claim by an applicant that he is a part of a scheduled tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded on the ground that his present traits do not match his tribes' peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. Thus, the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim."*

(7) In the case of **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti .vrs. The State of Maharashtra and others - 2023 [2] Mh.L.J. 785**, the Constitution Bench of three Judges of

the Hon'ble Supreme Court referred the judgment in the case of Anand (supra).

*"10. The learned Counsel also relied on Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra), wherein, it is held that :*

*"(a) Only when the Scrutiny Committee after holding an enquiry is not satisfied with the material produced by the applicant, the case can be referred to Vigilance Cell. While referring the case to Vigilance Cell, the Scrutiny Committee must record brief reasons for coming to the conclusion that it is not satisfied with the material produced by the applicant. Only after a case is referred to the Vigilance Cell for making enquiry, an occasion for the conduct of affinity test will arise.*

*(b).....*

*(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."*

(8) On careful examination of the documents, it reveals that consistently there is record containing the pre-constitutional entries of 'Halbi' caste. The oldest document of the year 1921 has great probative value which ought to have been weighed. In view of the above, the order passed by the Respondent No. 1 - Scrutiny Committee is unsustainable and liable to be quashed and set aside.

(9) Hence, we pass the following order:-

### **ORDER**

(a) The Writ Petition is **allowed**.

(b) The impugned order passed by the Respondent No. 1 - Scrutiny Committee dated 06/06/2023 is hereby quashed and set aside.

(c) It is declared that the Petitioner - Mayur S/o Ramkrusna Thigale belongs to caste 'Halbi' Scheduled Tribe and accordingly the Respondent No. 1 - Scrutiny



Committee is directed to issue caste validity certificate in favour of the Petitioner as belonging to caste 'Halbi' Scheduled Tribe within a period of four weeks from the date of receipt of this judgment.

**Rule is made absolute in the above terms.** Pending Application(s), if any, stand(s) **disposed of.**

**(SMT. M.S. JAWALKAR, J.)**

**(VINAY JOSHI, J.)**