

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

WRIT PETITION NO.7517/2023

Mayur s/o. Sanjay Wankhade

Vs.

Vice Chairman/Jt. Commissioner, Schedule Tribe Caste Certificate Scrutiny
Committee, Amravati

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. P. Kalmegh, Advocate for Petitioner.
Mr. N. S. Autkar, A.G.P. for Respondent/State.

CORAM : NITIN W. SAMBRE AND
MRS.VRUSHALI V. JOSHI, JJ.

DATED : 26/03/2025.

Heard.

2. The challenge is to the order dated 07.07.2023 passed by the respondent – Committee wherein the claim for issuance of validity of belonging to “Thakur” Scheduled Tribe came to be rejected.

3. The petitioner, a student submitted a claim for issuance of validity on 18.10.2022 based on the caste certificate dated 05.10.2022 of belonging to “Thakur” Scheduled Tribe. In support of the tribe claim for issuance of validity, the oldest documents which the petitioner has relied on viz. birth entry of Gangaram, his great-grandfather of 16.08.1920 wherein the caste is recorded as “Thakur”. Similarly, 1977 entry of Jayvantabai Gangaram Thakur is also sought to be relied on wherein she is shown to have died and in the name column “Thakur” entry is recorded.

4. According to Mr. Kalmegh, learned Counsel

appearing for the petitioner, once the oldest entry of 16.08.1920 in relation to Gangaram, great-grandfather of the petitioner is not in dispute and the Committee during Vigilance Cell enquiry is unable to gather any adverse documents, the Committee has erred in rejecting the claim. According to him, reference to the birth entry of daughter of Yanabai of 27.02.1948, who is alleged to be the great-grandmother of the petitioner reflecting caste entry of “Maratha” is false as there is no such document or entry noticed. He has invited our attention to the death record of Yanabai of 27.02.1948 issued by the Tahsildar, Akot from the Extract of Kotwal Book. According to him, said Yanabai, wife of Gangaram wherein caste entry is of “Maratha” is not related to the petitioner and the same was specifically denied.

5. As such, he would urge that based on the oldest entry and the subsequent entries of the petitioner and his father, he is entitled for issuance of validity.

6. As against above, Mr. Autkar, learned A.G.P. would urge that only an isolated entry of 1920 of great-grandfather is not sufficient to infer that the petitioner belongs to “Thakur” Scheduled Tribe as it is brought on record by the Vigilance Cell that his great-grandmother Yanabai was belonging to “Maratha” caste and as such, the petitioner owes an explanation for the same. He has claimed that the reference to the birth entry in para 3(i) is mistakenly mentioned as the same should have been the death entry of Yanabai. He has claimed that the petitioner has not satisfied the affinity test also.

7. We have considered the claim.

8. It is the case of the petitioner that he has denied his relationship with Yanabai and has claimed that his great-grandmother was Gangabai. In relation to Gangabai, he has produced on record the death certificate and the name of great-grandmother is referred to as Jayvantabai w/o. Gangaram Thakur.

9. Apart from above, a son was shown to be born to Gangaram, the great-grandfather of the petitioner on 16.08.1920 wherein the caste is recorded as “Thakur”. The other entry of the caste in relation to father Sanjay is of 25.06.1983 wherein the caste is recorded as “Thakur”.

10. The only adverse entry noticed by the respondents is that of Yanabai. However, the petitioner has denied the relation with Yanabai and the Committee has failed to record any finding as regards whether Yanabai or Jayvantabi who was the great-grandmother of the petitioner. Once, the petitioner has placed on record the documents of Jayvantabai Gangaram Thakur in support of his tribe claim and the Committee intends to rely on the documents of Yanabai which are adverse to the interest of the petitioner, it is expected of the Committee to deal with the issue as to how Jayvantabai is not related to the petitioner and it is Yanabai who is related to the petitioner. We are sensitive to the scheme of Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste

Certificate Act, 2000 which casts a burden on the claimant to prove that he belongs to Scheduled Tribe Category. However, since inception, the petitioner has claimed that he belongs to “Thakur” and his great-grandmother was Jayvantabai w/o. Gangaram Thakur, who died on 04.09.1977.

11. Once, such claim was made by the petitioner, there were two options with the Committee (a) to demonstrate that Jayvantabai is not his great-grandmother and (b) that the petitioner’s great-grandmother is Yanabai, who was married to Gangaram, belonging to “Maratha” caste. The Committee has failed to record any finding but for denial of relationship with Jayvantabai and accepting the stand of the Vigilance Cell.

12. Apart from above, the affinity test is informed to have been not satisfied by the petitioner which is held to be not a litmus test in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.*** reported in ***2023(2) Mh.L.J. 785.***

13. That being so, the order impugned dated 07.07.2023 is not sustainable and is accordingly quashed and set aside.

14. We direct the respondent – Committee to issue validity certificate in favour of the petitioner as that of belonging to “Thakur” Scheduled Tribe within a period of four weeks from today.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)