



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

WRIT PETITION (WP) NO. 3841/2005

Pradeep s/o Himmatrao Wankhade
Aged about years, Occupation : service,
R/o Near Ram Mandir, Karanja (Lad)
District : Akola

..... PETITIONER

// VERSUS //

1. State of Maharashtra
Through the Secretary
Trible Development Department
Mantralaya, Mumbai-32.
2. Caste Scrutiny Committee for Scheduled Tribe
Through its Members and Chairman,
Amravati Division, Amravati
3. The Divisional Controller,
Maharashtra State Transport Corporation,
Akola.

.... RESPONDENT(S)

Ms. P.D. Rane, Advocate for the petitioner
Ms. Kalyani R. Deshpande, AGP for respondent nos. 1 and 2/State
Shri A.D. Sonak, Advocate for respondent no. 3

CORAM : A.S. CHANDURKAR AND G.A. SANAP, J.J.

DATED : 24/02/2022

ORAL JUDGMENT : (PER:- A. S. CHANDURKAR, J.)

The challenge raised in this writ petition is to the order passed by the Caste Scrutiny Committee, Amravati dated 06.06.2005 thereby invalidating the tribe claim of the petitioner of belonging to

“Thakur” Scheduled Tribe.

2. It is the case of the petitioner that he and his forefathers belong to “Thakur” Scheduled Tribe. The petitioner came to be appointed as a Labourer with the respondent no. 3 – Corporation on 01.03.1988 initially on daily wages. By a subsequent order on 25.02.1989 the petitioner was continued in service. His services were confirmed on 01.10.1992. The Caste Certificate of the petitioner dated 10.04.1981 was submitted for verification before the Scrutiny Committee. During the course of scrutiny the petitioner relied upon various documents prior to 1950 which indicated his tribe to be “Thakur” as mentioned therein. The said documents were verified by the Vigilance Cell and in its report, it was stated that entry “Thakur” was consistently found in all the old documents. In its report dated 18.10.2003, the Vigilance Cell however observed that the petitioner and his family members did not have affinity with “Thakur” Scheduled Tribe. The Scrutiny Committee after considering the material on record held that mere entries of “Thakur” in the old documents was not sufficient to grant a validity certificate to the petitioner. Since the petitioner and his family members did not indicate affinity to “Thakur” Scheduled Tribe, by the order dated 06.06.2005 the Scrutiny Committee invalidated the tribe claim of the petitioner. Being aggrieved, the said order has been

challenged in this writ petition.

3. Ms. PD. Rane, the learned Counsel for the petitioner submitted that the Vigilance Cell having found that all the documents indicated the presence of the entry “Thakur” therein it was not open for the Scrutiny Committee to ignore such old pre-constitutional documents. The oldest document was of the year 1919 followed by various other documents. It was not permissible for the Scrutiny Committee to observe that though the entry “Thakur” was found in the old documents, it was likely that the petitioner and his forefathers belonged to “Thakur” community from the higher caste. She further submitted that on the basis of the affinity test the claim of the petitioner could not have been rejected especially when the numerous pre-constitutional documents consistently showed the entry “Thakur”. It was therefore submitted that the impugned order passed by the Scrutiny Committee was liable to be set aside. The learned Counsel invited attention to an affidavit dated 17.02.2022 filed by the petitioner in which it was stated that various blood relatives had been issued validity certificate by the Scrutiny Committee. On this ground also the claim of the petitioner was liable to be allowed. The petitioner was in service with respondent no. 3 – Corporation and had now superannuated. He was thus entitled to receive all service benefits if the Court upheld his claim.

4. Ms. Kalyani R. Deshpande, the learned Assistant Government Pleader for the respondent nos. 1 and 2 supported the impugned order and opposed the aforesaid submissions. She submitted that even if the entry “Thakur” was found in the old documents that by itself was not sufficient to uphold the claim of the petitioner. The petitioner and his family members were unable to satisfy the Vigilance Cell on the affinity test. The same was also material and opinion of the Vigilance Cell could not be easily brushed away. She further submitted that the various relatives indicated in the affidavit filed by the petitioner were not known to be related to the petitioner for the reason that there was no family tree submitted before the Scrutiny Committee. Hence the issuance of validity certificate to the persons named in the affidavit was of no consequence. It was thus submitted that there was no case made out to interfere with the adjudication of the Scrutiny Committee.

Shri A.D. Sonak, the learned Counsel for the respondent no. 3 submitted that it was necessary for the petitioner to have his tribe claim examined and therefore the Corporation had sought verification of the petitioner’s certificate.

5. We have heard the learned Counsel for the parties at length and with their assistance we have gone through the record of the case. It is seen that during the course of scrutiny the petitioner relied upon

various pre-constitutional documents. Documents dated 12.06.1925, 09.01.1931 and 19.01.1931 were verified by the Vigilance Cell and it was reported that the said documents were found in the original records. In these documents the entry “Thakur” can be found. The Vigilance Cell in its report has also opined about genuineness of these documents. It is an admitted position that no other document having any contrary entry was found by the Vigilance Cell during the process of verification. It is well settled that the documentary evidence based on pre-constitutional documents has to be given more weightage than documents after 1950. Since all consistent old entries refer to “Thakur” the petitioner cannot be deprived of the benefit flowing from the old records. Moreover, when old documents are available on record and have been scrutinized, it would not be permissible to reject the claim of the petitioner only on the ground that the petitioner has failed to indicate his affinity to “Thakur” Scheduled Tribe as observed by the Vigilance Cell. In *Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Others* [(2012) 1 SCC 113]. The Hon’ble Supreme Court has observed that the affinity test cannot be the sole litmus test for determining caste/tribe of the claimant. If pre-constitutional documents are produced they would have greater probative value than the affinity test. We therefore find that the presence of various old documents on record support the claim of the petitioner.

6. Coming to the affidavit filed by the petitioner alongwith statements that various blood relatives have been issued the validity certificates, it is found that when the claim of the petitioner was verified there was no family tree submitted to the Scrutiny Committee as a result it would be difficult at this stage to grant benefit to the petitioner solely on the ground that some blood relatives have been issued validity certificates. There is no material on record to hold that the persons named in the affidavit are related to the petitioner. Be that as it may, on the strength of old records which is prior to 1950 we are satisfied that the petitioner has proved his case that he and his forefathers belong to “Thakur” Scheduled Tribe. The Scrutiny Committee despite noticing these old documents failed to give due weightage and probative value to the old documents and relied upon only the affinity test for denying the certificate of validity to the petitioner. It is found that the impugned order is not sustainable and it is thus liable to be set aside.

7. In the light of the aforesaid discussion following order is passed:-

- i. The order dated 06.06.2005 passed by the Scrutiny Committee is set aside.
- ii. It is declared that the petitioner belongs to “Thakur” Scheduled Tribe. The Scrutiny Committee shall issue a

validity certificate to the petitioner within a period of four weeks from the production of this order. As a result of this adjudication, the petitioner would be entitled to receive his service benefits from the respondent no. 3.

iii. It is informed that the petitioner has superannuated from service. Service benefits to be released in favour of the petitioner within a period of three months from the production of this order before the respondent no. 3.

8. Rule is made absolute in the aforesaid terms with no order as to costs.

JUDGE

JUDGE