

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

**WRIT PETITION NO. 3035 OF 2021**

Prajwal S/o Prakash Donge,  
Aged about : 18 years,  
Occupation : Student,  
R/o Siddhi Vinayak Nagar,  
Ghatpuri Naka, Khamgaon,  
Taluka – Khamgaon,  
Distt. Buldana.

..... **PETITIONER**

**VERSUS**

The Vice-Chairman /  
Member Secretary,  
Scheduled Tribe Caste  
Certificate Scrutiny  
Committee, Chaprashipura,  
Amravati.

..... **RESPONDENT**

Ms. Preeti Rane, Advocate for petitioner.

Ms. H. N. Jaipurkar, Assistant Government Pleader for respondent.

**CORAM: A.S. CHANDURKAR &**

**G. A. SANAP, JJ.**

**DATED : 21/02/2022**

**ORAL JUDGMENT : (PER G. A. SANAP, J)**

1. **Rule.** Rule is made returnable forthwith. Heard finally with the consent of learned Advocates for the parties.

2. The challenge is to the order dated 20/01/2021 passed by the respondent – Caste Scrutiny Committee,

Amravati, whereby the Scrutiny Committee rejected the validity certificate of the petitioner belonging to 'Thakur' Scheduled Tribe Community.

3. It is the case of the petitioner that there are Pre-Independence documents to substantiate his Caste / Tribe claim. The petitioner has specifically stated that the validity of the caste claim of his paternal aunt of Ambika Donge was subject matter of Writ Petition No.8226/2018. The said writ petition of the paternal aunt has been allowed and she is found to be entitled to get the validity of caste claim belonging to 'Thakur' Scheduled Tribe community. According to the petitioner, Vigilance Cell Report supports the contention of the petitioner. A reference of the order passed in Writ Petition No.8226/2018 has been made in the Vigilance Cell Report. This fact has also been mentioned in the order of Scrutiny Committee. It is submitted that the Scrutiny Committee has rejected the tribe claim of the petitioner only by applying Affinity Test. It is submitted that the documents placed on

record are sufficient to accept the claim of the petitioner belonging to 'Thakur' Scheduled Tribe.

4. The learned Assistant Government Pleader supported the order passed by the Scrutiny Committee.

5. We have heard learned Advocate for the petitioner and learned Assistant Government Pleader for respondent. We have gone through the record and proceedings.

6. It is undisputed that Ambika is the paternal aunt i.e. sister of father of the petitioner. Admittedly, in Writ Petition No.8226/2018, this Court has set aside the order rejecting her claim as well and issued direction to the Caste Scrutiny Committee to issue Caste Validity Certificate in the name of Ambika belonging to 'Thakur Scheduled Tribe community. It is undisputed that Ambika is the blood relative of petitioner. In the case of Apoorva d/o Vinay Nichale Vrs. Divisional Caste Certificate Scrutiny Committee No.1 and

others<sup>1</sup>, this Court has held that if the Validity Certificate is granted to the blood relative of the petitioner, the committee would be required to grant Validity Certificate to the blood relative without making further enquiry unless the previous enquiry is tainted by fraud or the same is granted without jurisdiction. In our view, this proposition would support the claim of the petitioner.

7. We have perused the documents produced on record. The documents produced on record have been mentioned in the Vigilance Cell Report. Similarly, documents have been considered by the Caste Scrutiny Committee. The Scrutiny Committee without recording satisfactory reasons had passed the order. The Court accedes to the decision rendered by this Court in favour of Ambika. The Scrutiny Committee has rejected the claim of the petitioner by applying the Affinity Test. In our considered opinion in the teeth of the Judgment of this Court as above and the documents placed on record, the Caste Scrutiny Committee is not justified in giving

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unnecessary weightage and placing unwarranted reliance on the Affinity Test. The Affinity Test cannot be the only factor to decide the caste claim. It is pertinent to mention that in the backdrop of such voluminous documents and adjudication of the claim of the blood relative, the Caste Scrutiny Committee was not justified in placing reliance on the Affinity Test and thereby, rejecting the claim of the petitioner.

8. In view of the above, we are of the view that the order of the Caste Scrutiny Committee rejecting the Tribe claim of the petitioner cannot be sustained. Accordingly, petition is required to be allowed. Hence, the following order :-

### **ORDER**

i] The order dated 20/01/2021 passed by the Caste Scrutiny Committee, Amravati invalidating the Tribe claim of the petitioner is set aside.

ii] It is ordered that the claim of the petitioner belonging to 'Thakur' Scheduled Tribe, which is an entry at Sr.No.44 of the Constitution (Scheduled Tribes) Order, 1950 is held to be valid.

The Caste Scrutiny Committee is subsequently directed to issue Caste Validity Certificate in the name of petitioner within a period of six weeks from today.

iii] Needless to mention that the petitioner would be entitled to all benefits flowing from the issuance of Validity Certificate.

iv] Rule is made absolute in the above terms. No order as to costs.

(G. A. SANAP, J.)

(A.S. CHANDURKAR, J.)

Choulwar