



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

WRIT PETITION NO. 869/2023

Raju s/o. Baburao Thakur,
Aged about 53 years,
Occupation – Service as Assistant Sub Inspector,
Resident of Balaji Nagar, Tq. & Dist. Buldhana. ----PETITIONER

--VERSUS--

1. The Scheduled Tribe Caste Certificate Scrutiny Committee, Through its Member Secretary, Chaprasipura, Amravati.
2. The Superintendent of Police, Buldhana, SBI Square, Buldhana. ----RESPONDENTS

Mr. P. R. Parsodkar, Advocate for Petitioner.
Mr. A. S. Fulzele, Additional Government Pleader for Respondent Nos.1 and 2.

CORAM : A.S.CHANDURKAR AND MRS.VRUSHALI V. JOSHI, JJ.
DATED : SEPTEMBER 29, 2023.

JUDGMENT (PER : MRS. VRUSHALI V. JOSHI, J.)

1. **Rule.** Rule made returnable forthwith and heard finally with consent of the learned Counsel for the parties.
2. The petitioner has challenged the order of invalidation dated 19.12.2022 passed by the respondent No. 1 – Scheduled Tribe Caste Scrutiny Committee, Amravati. The petitioner belongs to ‘Thakur’ Scheduled Tribe. The petitioner was initially appointed as a Police Constable and now working as Assistant Sub Inspector under the

respondent No.2. The petitioner submitted that in old documents his grandfather Laxman Sampat Thakur is recorded as 'Thakur' Scheduled Tribe in the Birth Register on 29.01.1941 and he was blessed with son namely Motiram. The petitioner's real uncle Murlidhar Laxman's caste is also recorded as 'Thakur' in the extract of School Register, wherein his date of birth is shown as 26.08.1946. The petitioner's real cousin Rahul Murlidhar Thakur and Rohit Murlidhar Thakur have been granted caste validity certificates of 'Thakur' Scheduled Tribe.

3. The petitioner's tribe claim was referred to the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati for verification and, thereafter, the Caste Scrutiny Committee had referred the petitioner's case to the Police Vigilance Cell and the Police Vigilance Cell submitted its report. The petitioner had filed his reply on the Vigilance Cell Report on 17.07.2012 pointing out the oldest entry related to 'Thakur' Scheduled Tribe and, therefore, he is entitled for tribe certificate belonging to 'Thakur' Scheduled Tribe. The Scrutiny Committee has invalidated the tribe claim stating that the validity certificates which were issued to the cousin of the petitioner were issued by another Scrutiny Committee and the name and date of birth of the father is different and it is corrected afterwards. The affinity test does not match is one of the reasons for invalidating the caste claim of the petitioner.

4. The petitioner has relied on the judgment on the Hon'ble Apex Court in the case of ***Anand Vs. Committee for Scrutiny and Verification of Tribe Claims*** reported in ***(2012) 1 SCC 113*** wherein, the Hon'ble Apex Court has held that the affinity test is not a litmus test and the documents of pre-independence era have the highest probative value in the eyes of law and have to be considered. The Committee tried to distinguish between 'Thakur Caste' and 'Thakur Scheduled Tribe' only in order to reject the tribe claim of the petitioner, which is absolutely illegal and contrary to the judgment of this Court in the case of ***Narendra Dhudku Thakur Vs. Scheduled Tribe Certificate Scrutiny Committee, Pune & Ors.*** reported in ***2004(2) Mh.L.J. 578***. This Court has held that distinguishing the Caste Scrutiny Committee between 'Thakur Caste' and 'Thakur Scheduled Tribe' is not justified and is illegal. As the Caste Scrutiny Committee failed to consider the documents on record and the validity certificates issued to the blood relatives, he prayed to set aside the order passed by the Scrutiny Committee.

5. The learned Assistant Government Pleader opposed the writ petition stating that the Scrutiny Committee has applied the affinity test and it was found that the petitioner could not prove his socio-cultural affinity with 'Thakur' Scheduled Tribe. The petitioner could not prove that he was born and brought up into that society and miserably failed to

discharge the burden of proof. Therefore, the Committee has rightly rejected the claim.

6. Heard both the learned Counsel and perused the record.

7. The ground of invalidating the caste claim is that the name of the father and date of birth do not match with the oldest document where the caste of the grandfather mentioned as 'Thakur' and the birth of the father of the petitioner is mentioned there but the name and the date of birth is not correct. It appears from the record that the father has given the affidavit and stated on oath that his name was corrected and date of birth was also corrected. Further, two validity certificates of cousin of the petitioner were also not considered by the Scrutiny Committee. In view of the ratio of the judgment of this Court in the case of ***Apoorva Nichale Vs. Divisional Caste Scrutiny Committee reported in (2010) 6 Mh.L.J. 401***, as the petitioner's six blood relatives are given caste validity certificates by various judgments of this Court, the petitioner is entitled for the validity certificate. Therefore, it is necessary to consider the validity certificates issued to the blood relatives. The relationship of the petitioner with said persons is proved by the genealogical tree which is also not disputed by the Scrutiny Committee.

8. In the recent judgment in the case of ***Maharashtra Adiwasi***

Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.

reported in **2023(2) Mh.L.J. 785** the Hon'ble Apex Court has held that the affinity test is not a litmus test and the documents of pre-independence era have the highest probative value in the eyes of law and have to be considered.

9. Considering the pre-independence entries and as there are validity certificates of blood relatives, which matched with the genealogical tree, it is proved that the petitioner belongs to 'Thakur' Scheduled Tribe. Hence, the writ petition is allowed. We, therefore pass the following order :

- i] The order passed by the Scrutiny Committee on 19.12.2022 is set aside. It is declared that the petitioner belongs to "Thakur" Scheduled Tribe.
- ii] Within a period of four weeks of receiving the copy of this judgment, the Scrutiny Committee shall issue validity certificate to the petitioner.

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

(MRS.VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)