



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

WRIT PETITION NO.6705 OF 2022

(Sushant s/o Ashokrao Pisole .vs. Scheduled 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.

Shri R.D. Karode, Advocate for petitioner,
Shri A.M. Kadukar, Assistant Government Pleader for respondent.

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CORAM : **NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.**
DATE : **31.07.2024.**

Heard the learned Counsel for the parties.

2. The challenge is to the order dated 16th March, 2022 passed by the respondent-Caste Scrutiny Committee, whereby the prayer of the petitioner for issuance of validity certificate of belonging to 'Thakur' (Scheduled Tribe) came to be rejected.

3. Shri Karode, learned Counsel for the petitioner, would invite our attention to the impugned order so as to submit that documents since 1931 onwards in relation to the great-grandfather and the father of the petitioner clearly depict the caste entries 'Thakur'. He would claim that the entries, which are placed by the petitioner in the form of the documentary evidence before the Committee, are not disputed. He would urge that only

on the count that the petitioner has failed to satisfy the affinity test, the tribe claim of the petitioner is rejected.

4. As against above, Shri Kadukar, learned Assistant Government Pleader for the respondent, would urge that even if the documents are demonstrating the entry as 'Thakur', it is always open for the Committee to analyse the claim so as to find out whether the candidate like the petitioner belongs to 'Thakur' (Scheduled Tribe). In addition, his contentions are that the petitioner has failed to satisfy the affinity test, which is applied as reflected in the impugned order. That being so, the impugned order is sustainable and the claim of the petitioner is liable to be rejected.

5. We have appreciated the rival submissions.

6. The petitioner, in support of his tribe claim, produced the documents in relation to Laxman Ganesh Pisole, great-grandfather in relation to transaction of land. Similarly, the other documents of 14th March, 1940 and 9th April, 1938 in relation to the said great-grandfather Laxman Ganesh Pisole in the form of sale deed are not disputed by the Committee. He would claim that the said entries are further carried forward in the record of the father and the petitioner.

7. In addition, our attention is invited by the learned Counsel for the petitioner to the School Leaving Certificate and the extract of Dakhal Kharij Register of 1st September, 1923 in relation to his cousin grandfather, namely, Narayan Laxman Pisole wherein caste is recorded as 'Thakur'. The entries in the documents of 1934, 1937, 1958 etc. of other blood relations viz. the sister of the grandfather of the petitioner, namely, Narmada Laxman Pisole, the grandfather Dattatraya Laxman Pisole and the other cousin relations also depict the caste 'Thakur'. The aforesaid entries were not disputed before the Committee in spite of there being enquiry by the Vigilance Cell. As such, based on the documentary entries of caste, it can be inferred that the petitioner has demonstrated that he belongs to 'Thakur' caste. The Committee thereafter proceeded to evaluate the claim of the petitioner based on the affinity test and noted that the petitioner has failed to satisfy the affinity test. The Committee also considered the area restrictions viz. the place of residents of ancestors of the petitioner.

8. After the area restrictions are removed, it is trite position of law to infer that the 'Thakurs' who are from other places than the one, which were earlier dominated by their residence, are not entitled for such benefit.

9. The Apex Court in various judgments has already declared that the affinity test cannot be termed as a litmus test

for the purpose of rejecting the tribe claim.

10. In this background, having noticed that the petitioner has established his claim of belonging to ‘Thakur’ on the basis of documents, in our opinion, the impugned order cannot be said to be sustainable. As such, the impugned order dated 16th March, 2022 passed by the respondent-Committee is hereby quashed and set aside. It is declared that the petitioner belongs to ‘Thakur’ (Scheduled Tribe).

11. We direct the respondent-Committee to issue the caste validity certificate to the petitioner within six weeks from today.

12. The petition stands disposed of accordingly.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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