



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

WRIT PETITION NO.3872/2021

Ku. Ujwala D/o. Pralhadrao Pawar,
(Sau. Ujwala W/o. Deepakrao Tayde),
Aged about 46 yrs., Occ. Service,
R/o. Balaji Nagar, Gadgade Shor Road,
Amravati, Distt. Amravati.

PETITIONER

VERSUS

1. The Vice-Chairman/Member- Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee,
Chaprashipura, Amravati Division, Amravati.
2. The Commissioner of Police,
Amravati, Dist. - Amravati.

RESPONDENTS

Ms Himani Kavi, Advocate h/f. Ms Priti Rane, Advocate for Petitioner.
Mr. N. R. Patil, A.G.P. for Respondent(s)/State.

CORAM : **SANDEEP K. SHINDE AND**
MRS.VRUSHALI V. JOSHI,JJ.
RESERVED ON : **14/12/2022.**
PRONOUNCED ON : **23/12/2022.**

JUDGMENT : [PER : MRS. VRUSHALI V. JOSHI, J.]

1. Heard.
2. **Rule.** Rule made returnable forthwith and heard finally with
the consent of the learned Counsel for the parties.
3. The challenge in this petition is to the order dated 13.08.2021
passed by the Scheduled Tribe Caste Certificate Scrutiny Committee,
Amravati invalidating the claim of the petitioner for 'Thakur' Schedule

Tribe which is an entry at Serial No.44 of the Constitution (Scheduled Tribes) Order, 1950. The Committee invalidated the tribe claim on the ground that neither documents substantiated the claim nor petitioner could answer the affinity test, besides, area restrictions. We have perused the impugned order and the documentary evidence produced by the petitioner in support of her claim. We find at least eight documents of petitioner's relatives were showing and/or recording their caste, 'Thakur'. The Family Tree produced by the petitioner has not been disputed by the Committee. Therefore, the documents of her close relatives showing their caste 'Thakur' were relevant for consideration. We find at least eight such documents were of pre-independence period showing their caste. Few of such documents of petitioner's relatives were of pre-independence period recording 'Thakur' as their caste. Few of such documents were Extract of Kotwal Book of petitioner's father of 1925; Extract of Kotwal Book of her uncle Gunwantha of 1937; Extract of Dakhal Kharij Register of her uncle Gunwantha of 1937/1947; Extract of Dakhal Kharij Register of her uncle Ramkrushna which mentions his birth date as 23.10.1940; School Leaving Certificate of her uncle Ramkrushna 1940; Extract of Dakhal Kharij Register of her aunt Chandrakala of 1946/1955; School Leaving Certificate of paternal uncle namely Vitthal 1948; Extract of Sale Deed of petitioner's grandfather Bajirao of 1936, Extract of Sale Deed of petitioner's grand father Bajirao of 1939 and Revenue document of her

grandfather of 1954. Thus, could be seen most of the documents were of the period prior to 1950 or around, recording their caste as 'Thakur'. These documents of pre-independence period have a more probative value. Yet, the Committee overlooked the documentary evidence and thereby erroneously invalidated the caste claim of the petitioner. In consideration of the evidence on record, we hold that the petitioner has proved her claim of belonging to 'Thakur Tribe'.

4. In any case, the Committee relied on the report of vigilance cell dated 18.10.2016. It refers to and the document of 1940 of one Bhajya Chandrabhan, who had been shown to be grand father of the petitioner. Thus, the document refers to and produced by the vigilance cell of Bhajya Chandrabhan was showing his caste 'Bhat'. The Committee selectively relied on these documents and invalidated the petitioner's claim, although, petitioner in reply to the vigilance report denied her relationship with Bhajya Chandrabhan, however, the Committee did not look into the reply of the petitioner. Be that as it may, the petitioner had produced a caste validity certificate dated 10.12.2019 of her brother Pandurang Pralhadrao Pawar. We fail to understand how the Committee could invalidate the petitioner's tribe claim when her real brother's tribe claim was validated on 10.12.2019 and has not been challenged by the Committee. In consideration of the facts of the case and evidence on

record, we hold that petitioner has established her claim belonging to the 'Thakur Tribe'

5. Insofar as failure to establish affinity test is concerned, it may be stated that in view of the decision of the Hon'ble Apex Court in ***Anand Vs. Committee of Scrutiny and Verification of Tribe Claims and Others*** reported in ***2011 (6) Mh.L.J. 919***, the affinity test can be used only a corroborative piece of evidence and, therefore, the Committee could not have invalidated the petitioners' claim for failing in affinity test, particularly when the documentary evidence has established that they belongs to a 'Thakur' caste. So far as the area restriction is concerned, the learned Counsel would rely on the judgment of the Hon'ble Apex Court in the case of ***Jaywant Dilip Pawar Vs. State of Maharashtra and Others*** reported in ***2018(5) All M R 975 (S.C.)***.

6. In consideration of above facts and pre-independence documents showing caste recorded in the official documents of their ancestral as 'Thakur', we quashed and set aside the impugned order dated 13.08.2021 and hence the following order :

ORDER

- i] The order dated 13.08.2021 passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is hereby quashed and set aside.

ii] The claim of the petitioner for Thakur- Scheduled Tribe which is an entry at Serial No.44 of the Constitution (Scheduled Tribes) Order, 1950, is held to be valid. Accordingly, the respondent – Scheduled Caste Certificate Scrutiny Committee, Amravati is directed to issue forthwith the Caste Validity Certificate of Thakur- Scheduled Tribe in the name of the petitioner.

7. The Rule is made absolute in the aforesaid terms. No orders as to costs.

8. Pending Civil Application(s), if any, stand(s) disposed of.

(MRS. VRUSHALI V. JOSHI, J.)

(SANDEEP K. SHINDE, J.)

RGurnule.