



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

Writ Petition No.997/2022

Santosh s/o Shyamsunder Wankhede,  
Aged about 38 years, Occupation- Nil,  
R/o. Takarkheda (More), Tah. Anjangaon Surji,  
District Amravati.

.... Petitioner.

*-Versus-*

1. The Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, through its Member Secretary, Irwin Chowk, Amravati.
  2. The Director, Ground Water Survey and Development Agency, Pune, District Pune.
  3. The Deputy Director, Ground Water Survey and Development Agency, Nashik, District Nashik.
  4. The Deputy Director, Ground Water Survey and Development Agency, Amravati, District Amravati.
- .... Respondents.

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Mr. R.S. Suryavanshi, Adv. for petitioner.  
Mr. S.M. Ghodeswar, AGP for respondent nos. 1 to 3.  
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Coram : Nitin W. Sambre &  
Abhay J. Mantri, JJ.  
Dated : 22-04-2024.

**J U D G M E N T** (Per Abhay J. Mantri, J.)

**Rule.** Rule made returnable forthwith and heard finally with the consent of learned Counsel for the parties.

2. The challenge raised to the order dated 26-10-2021 passed by respondent no.1-Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for short - *the 'Scrutiny Committee'*), thereby invalidating the tribe claim of the petitioner that he belongs to '*Thakur*' Scheduled Tribe category, came to be rejected.

3. The petitioner claims that he belongs to the '*Thakur*' Scheduled Tribe community. On 19-02-1996, the Executive Magistrate, Akola issued the caste certificate in his favour that he belongs to the '*Thakur*' Scheduled Tribe.

4. On 19-01-2009, respondent no.4 issued an advertisement for the post of 'Rigman'. On 16-03-2009, respondent No. 3 issued a selection letter and asked him to submit a validity certificate immediately. So, on 20-10-2005, he applied to the Committee to verify his tribe claim as he belongs to the '*Thakur*' Scheduled Tribe.

5. In 2009, the petitioner approached this Court and sought a direction against the Committee to decide the claim pending with it in a time-bound manner. Accordingly, vide order dated 05-10-2009, this Court has directed the Committee to decide the petitioner's claim within the prescribed time limit and in any case before 30-03-2010. On 30-03-2010, the petitioner made a representation to respondent No. 3 and requested to appoint him on the post of 'Rigman' and kept the said post vacant till the decision of his caste claim. However,

respondent no.3 has not considered the representation, so the petitioner approached this Court by filing Writ Petition No.3350/2010. On 06-08-2010 this Court passed the order and directed the respondent no.1 Committee to decide the caste claim of the petitioner within a period of six months as well as directed the respondent no.3 Deputy Director to appoint the petitioner provisionally on the selected post on obtaining the undertaking.

6. Pursuant to the said order, respondent No. 3 issued an appointment order dated 07-09-2010 in favour of the petitioner and asked him to join the duty within ten days from the date of the said order. The said appointment order was received by him on 20-09-2010. He went there on 24-09-2010 to join the duty, however, they did not allow him to join. Despite several requests, they did not allow him to join the duty. Subsequently, on 05-02-2011, respondent no.3 issued an appointment order in his favour to join the duty on the establishment of the Senior Geologist, Ground Water Survey and Development Agency, Amravati. However, the said office did not allow him to join the duty. Therefore, he again made a representation to respondent No. 2 Director on 15-07-2017. In response to the said representation, he has received a communication dated 07-09-2017 from the office of respondent No. 4 Deputy Director that he has committed a breach of Rules. His explanation was called and consequently, his services have been terminated.

7. He filed Writ Petition No.2955/2018 before this Court. However, on the grounds of jurisdiction, the same was disposed of. Accordingly, he has filed Original Application No.551/2018 before the Tribunal (MAT). Then he filed Contempt Petition No.175/2021. However, during the pendency of the Contempt Petition, the respondent No. 1 Committee invalidated the caste claim of the petitioner. As such, this petition.

8. Learned Advocate for the petitioner strenuously argued that the petitioner in support of his claim has submitted as many as 25 documents; out of them 07 documents are from the pre-Constitutional era and pertain to his ancestors, wherein the caste of his ancestors was shown as '*Thakur*'. However, the Committee did not consider those documents and gave undue importance to one document of the year 1948, wherein his grandfather's caste was shown as '*Thakur Ku.*' and invalidated the caste claim of the petitioner. It is further canvassed that the Committee has not considered the validity certificates issued in favour of his blood relatives on the ground that the same was issued without having any jurisdiction. Therefore, he submitted that passing the impugned order is illegal and liable to be set aside.

9. *Per contra*, learned Assistant Government Pleader contended that during the Vigilance Cell enquiry, they found one document of the year 1948 which shows that the

petitioner's grandfather belongs to 'Thakur Ku.'. Therefore, the passing of the order by the Committee is just and proper. He further canvassed that the petitioner has failed to discharge the burden cast upon him to prove that he belongs to the '*Thakur*' Scheduled Tribe and therefore passing of the order is just and proper. Hence, no interference is required in it.

10. We have appreciated the submissions of learned Counsel for both parties. Perused the impugned order, and documents placed on record.

11. It reveals that the petitioner in support of his claim has produced as many as 25 documents; out of them 07 documents are from the pre-Constitutional era and pertain to his grandfather, cousin great-grandfather, and others. The said documents are from the period 16-11-1911 to 22-09-1944. Neither the respondent no.1 Committee nor the Vigilance Cell have disputed the genuineness of those documents. Therefore, there is no reason to discard the said documents. Moreover, in all those documents the caste of the petitioner's ancestor is denoted as '*Thakur*'. It further reveals that only one document from 1948 was found in the Vigilance Cell during the enquiry wherein the caste of his grandfather was shown as '*Thakur Ku.*' It is pertinent to note that said document is subsequent to the 07 old documents, which have been referred to above.

12. *Furthermore*, it appears that the petitioner has

produced 02 validity certificates issued by the Scrutiny Committee at Aurangabad and Nashik to his paternal relatives and also produced validity certificates issued in favour of his cousin uncle, and aunt namely; Gajanan, Sunita, Shobha, Ravindra, and Pradip by Scrutiny Committee, Aurangabad. However, the respondent No. 1 Committee has not considered those documents on the ground that such validity certificates were issued by the Scrutiny Committee at Aurangabad and Nashik, which did not have any jurisdiction over the native place of these relatives. It is pertinent to note that the ground of rejection put forth in the impugned order by the Committee is illegal, as no law restricts the validity certificate only to the area over which the Scrutiny Committee has its jurisdiction. Once the validity certificate is granted to a claimant, it becomes conclusive proof of the social status acquired by the person for all the purposes and in any territory where such proof is required to be submitted. Therefore, such validity certificates can also be used as having a sufficient evidentiary value in the caste or tribe claim raised by the other paternal relatives of a person in whose favour those certificates are issued. We, therefore, find that the reasoning adopted by the Scrutiny Committee is wrong.

13. Apart from the above, the petitioner has also produced the caste validity certificate issued by the Committee at Amravati in favour of his cousin sister Shrawani. Respondent No.1 committee has not considered said certificate and erred in

discarding the same. In such an eventuality, we are of the view that based on the validity certificates issued in favour of the paternal relatives of the petitioner, the petitioner is also entitled to get a validity certificate, especially when it has not been shown that these validity certificates have been revisited on the ground that they were obtained by fraud, by making misrepresentation or by suppressing the material facts having a bearing on the claim made by these paternal relatives of the petitioner. As such, there is no reason for the respondent committee to discard these certificates.

14. Thus it appears that by non-consideration of the said validity certificates respondent no.1 Committee acted in contravention to the law laid down by this Court in the case of *Apoorva d/o Vinay Nichale vs Divisional Caste Certificate Scrutiny Committee No.1 and others (2010(6) Mh.L.J. 401)*. In fact, as per the dictum laid down in the case of *Apoorva Nichale (supra)*, the petitioner's claim ought not to have been refused and the same status shall have been awarded to him that he belongs to 'Thakur' Scheduled Tribe. Therefore, the finding of the Committee in that regard appears to be contrary to the settled position of law, hence liable to be set aside.

15. Similarly, the two other grounds have been taken into consideration by the Committee that the petitioner failed to prove that he belongs to the resident of the area mentioned in the order as well as failed to prove the affinity test. However, in

view of the judgment in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs State of Maharashtra and others*, reported in *2023(2) Mh.L.J. 785*, *Jaywant Dilip Pawar vs State of Maharashtra and others*, reported in *2018(5) All MR 975 (S.C.)* and *Anand vs Committee for Scrutiny and Verification of Tribe Claims and others*, reported in *2011(6) Mh.L.J. 919*, we are of the opinion that the question of area restriction does not arise as the same has been removed. Likewise, the question of affinity test is concerned, the same cannot be termed as a litmus test to discard the claim of the petitioner that he belongs to the '*Thakur*' Scheduled Tribe. Therefore, the finding in that regard given by the Scrutiny Committee is contrary to the settled position of law and the dictum laid down by the Hon'ble Apex Court in the above-referred judgments. Based on the said findings, the order cannot be sustained in the eyes of law, and therefore the same is liable to be set aside.

16. Having considered the above discussion and the law laid down by the Hon'ble Apex Court as well as this Court it is evident that the above-referred documentary entries from the years 1911 to 1944 onward speak of ancestors of the petitioner belonging to the '*Thakur*' community. The said entries pertain to various public documents such as; the School Register and Register of Birth and Death. The documents from the pre-Constitutional era have more probative value than the subsequent documents. Therefore, based on those documents, the petitioner is entitled to claim the relief as prayed for.



However, the respondent no.1 Committee based on one document of the year 1948 pertains to his grandfather which denotes that his grandfather belongs to 'Thakur Ku.' rejected the claim of the petitioner. As discussed above in our opinion, one stray entry is not sufficient to discard the other entries in pre-Constitutional era documents or cannot vitiate the claim of the petitioner as he belongs to the '*Thakur*' Scheduled Tribe. On the contrary, the law laid down by the Hon'ble Apex Court in the case of Anand (supra) applies to the case of the petitioner. As such, we do not see any substance in the submission of the learned Assistant Government Pleader in that regard. Therefore, based on the said finding the order cannot be sustained in the eyes of the law, and the same is liable to be quashed and set aside.

17. As a result, it seems that the petitioner has proved that he belongs to the '*Thakur*' Scheduled Tribe. Thus, in our opinion, the Committee has erred in rejecting the prayer of the petitioner in that regard.

18. In the light of above discussion, we deem it appropriate to allow the petition by passing the following order :-

- (a) The impugned order dated 26-10-2021 passed by respondent no.1 Scrutiny Committee is hereby quashed and set aside.

- (b) It is declared that the petitioner has proved that he belongs to the '*Thakur*' Scheduled Tribe.
  - (c) Within a period of four weeks from the receipt of a copy of this judgment respondent No. 1 - the Scrutiny Committee shall issue a Caste Validity Certificate in favour of the petitioner.
  - (d) As a sequel of above, the respondent nos.2 to 4 are directed to allow the petitioner to join on the post of 'Rigman', if not permitted earlier.
19. Rule is made absolute in the above terms with no order as to costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J)

*Deshmukh*