



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

WRIT PETITION NO. 5202 OF 2023

Sarthak s/o Digambar Gite,
Age 16 years (Minor), Occ. Student,
U/g of father, viz., Digambar s/o Dattatray Gite,
Age- 45 years, Occ. Agriculturist,
R/o. Santkripa Hospital, Kelkarwadi, Murtijapur,
Tq. Daryapur, Dist. Amravati.**PETITIONER**

....VERSUS....

1. The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai-32
Through its Secretary.

2. The Scheduled Tribe Certificate
Scrutiny Committee, Amravati
Division, Amravati
Through its Member Secretary,

3. The Commissioner,
State Common Entrance Test Cell,
Maharashtra State, 8th Floor, New
Excelsior, A.K. Nayak Marg, Fort
Mumbai-400001

4. K.K.Wagh Institute of Engineering
Education And Research College Nashik
Hirabai Haridas Vidyanagari Amrutdham,
Panchavati Nashik, Maharashtra 422003,
through its Principal

....**RESPONDENTS**

Shri S.C.Yeramwar, Advocate for petitioner.
Shri V.A.Thakre, AGP for respondent nos. 1 and 2/State.
Shri N.S.Khubalkar, Advocate for respondent no. 3.

CORAM : **AVINASH G. GHAROTE AND**
SMT. M.S. JAWALKAR, JJ.

DATE OF RESERVING THE JUDGMENT: **19/08/2024**
DATE OF PRONOUNCING THE JUDGMENT : **23/08/2024**

JUDGMENT (PER: SMT. M.S. JAWALKAR, J.)

Heard.

2. **Rule.** Rule made returnable forthwith.
3. Heard finally by consent of learned counsel appearing for the parties at the stage of admission.
4. The petitioner has approached before this Court challenging the invalidation order dated 14/08/2023 passed by the respondent no. 2 - The Scheduled Tribe Certificate Scrutiny Committee, Amravati Division, Amravati (hereinafter referred to as "Scrutiny Committee").

5. The petitioner is minor, therefore, he has preferred this petition through his natural guardian father. The petitioner belongs to 'Thakur' Scheduled Tribe which is included in the list of Scheduled Tribes at Sr. No. 44.

6. The petitioner submits that, for obtaining Caste Certificate, he was required to approach this Court by filing Writ Petition No. 369/2023 and Writ Petition No. 2007/2023, which have been disposed of by orders dated 8/3/2023 and 5/4/2023 respectively. In pursuant to the order passed by this Court in Writ Petition No. 2007/2023 dated 5/4/2023, the Sub-Divisional Officer, Daryapur issued Caste Certificate in favour of the petitioner as belonging to 'Thakur' Scheduled Tribe on 05/04/2023. Thereafter, the proposal for verification of Tribe Claim of the petitioner was referred to the respondent no. 2 - Scrutiny Committee along with genealogy and School Record since 1923 and Birth/Death record since 1931 of

his paternal side relatives showing the caste status as 'Thakur', so also the Mortgage Deed dated 22/03/1927 and Sale Deeds dated 23/03/1927 and 18/12/1930 executed by the great grand-father of the petitioner wherein the caste is clearly recorded as 'Thakur'.

7. The petitioner had submitted the following pre-Constitutional documents along with other documents:-

Name	Relation	Document	Date of document	Caste
Dattatraya Bhaurao Gite	Grandfather	School Leaving Certificate.	15/06/1945	Thakur
Tulshiram Shamrao	Cousin Great Grandfather	School Leaving Certificate.	25/08/1930	Thakur
Bhaurao Shamrao	Great Grandfather	School Leaving Certificate.	06/07/1923	Thakur
Shamrao Naroba	Great Great Grandfather	Death Extract	3/1/1931	Thakur
Dattatraya Bhaurao Gite	Cousin Grandfather	Dakhal KharijExtract	29/8/1949	Thakur
Bhaurao Shamrao	Great Grandfather	Dakhal KharijExtract	6/7/1923	Thakur

Ramrao Shamrao	Cousin Great Grandfather	Dakhal Kharij Extract	1/4/1926	Thakur
Shamrao Naroba	Great Great Grandfather	Sale Deed	22/3/1927	Thakur
Shamrao Naroba	Great Great Grandfather	Sale Deed	18/12/1930	Thakur
Indu Bhaurao	Great grandmother	Death Extract	19/5/1935	Thakur
Twins born to Bhaurao Thakur. One of them died.	Grandfather	Birth-Death Extract	9/7/1934	Thakur

8. Thereafter, the matter was referred to the Vigilance Cell for inquiry by the Scrutiny Committee. The Vigilance Officer had conducted the Vigilance Inquiry and submitted its report to the Committee on 28/07/2023, which had been served to the petitioner with Show Cause Notice dated 31/07/2023, directing to submit reply wherein the Vigilance Officer has obtained Birth record of two persons of the year 1911 and 1915 posing them as son and daughter of the petitioner's great grand-father showing the caste status as 'Bhat'. The petitioner had submitted reply to the said Vigilance Cell Report on

03/08/2023 clarifying that the records which have been obtained by the Vigilance Officer are not of his paternal side relatives as in the said records only the names as Shamrao and Shamu are mentioned and there is no further description or mention of the names of their father and surname. The petitioner had also pointed out the fact that, by going through the genealogy and Revenue Record, it clearly reveals that they are not paternal side relatives of the petitioner. Hence, the petitioner has denied the said record in its totality. In spite of that, the Scrutiny Committee had not considered the contentions of the petitioner in its proper perspective and considered those documents as contra evidence while deciding the Tribe Claim of the petitioner.

9. The petitioner submits that, during the pendency of Tribe Claim before the Scrutiny Committee, the petitioner had appeared for MHT-CET-2023 Examination for getting admission to the Engineering

Course from Scheduled Tribe category, on the basis of which, he had been allotted the College. The petitioner had confirmed his admission, wherein the authorities have specifically offered their remarks that, the certificate of validity is pending.

10. The petitioner submits that, in spite of having knowledge that the petitioner is aspiring admission to Engineering Course, the Scrutiny Committee deliberately decided Tribe Claim of the petitioner at belated stage and invalidated Tribe Claim of the petitioner by order dated 14/08/2023. The petitioner submits that, the Scrutiny Committee without considering the pre-Constitutional period documents showing the caste status as 'Thakur' invalidated his Tribe Claim as belonging to 'Thakur' Scheduled Tribe.

11. Being aggrieved and dissatisfied by the impugned decision of the Scrutiny Committee dated 14/08/2023 invalidating the Tribe Claim of the petitioner

as belonging to 'Thakur' Scheduled Tribe, the petitioner is challenging its legality, validity and correctness in the present Writ Petition.

12. The learned counsel for the petitioner relied on following citation/authority:-

Pragati d/o. Pradip Shinde @ Pragati w/o. Vishwas Chavan V/s. The Chairman, the Schedule Tribe Caste Certificate Verification Committee, Amravati [Judgment of this Court in Writ Petition No. 6205/2023 decided on 24/06/2024]

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

14. The learned Asst. Government Pleader for respondent(s)/ State relied on following citation/authority:-

Om S/o. Kishor Pawar V/s. The Vice-Chairman/Member-Secretary, Schedule Tribe Caste Certificate Scrutiny Committee, Amravati [Judgment of this Court in Writ Petition No. 1828/2022 decided on 13/09/2023]

15. We have heard both the parties at length. Perused the record and proceedings of the Scrutiny Committee placed on record by the learned AGP.

16. After going through the order passed by the Scrutiny Committee, it appears that, in two entries of the year 1911 and 1915 in respect of one Shamrao, his caste is shown as 'Bhat', on that basis, the claim of the petitioner was invalidated. It is very surprising that, there are as many as 11 documents of pre-independence era showing the caste of the petitioner as 'Thakur' and those are not disputed. It is also a matter of record that, the documents placed on record i.e. in respect of old documents, there are detailed description of the person i.e. his father's name, surname and caste whereas two documents which are picked up by the Vigilance Cell and Scrutiny Committee are having no details of the said person. The entry only shows that Shamrao gave birth to one son, his caste entry is shown as 'Bhat', the said entry is of year

1911, second document is in respect of Shamu who gave birth to a daughter on 14/04/1915. When the Scrutiny Committee called explanation from the petitioner it was duly explained by the petitioner. Thereafter, burden lies upon the Scrutiny Committee to establish the relation of the person with the petitioner specifically when there are no details of the person about his father's name or surname. It is alleged that these documents were deliberately suppressed, however, there is no substance in this allegation as they are not related with the petitioner. In fact, it appears that the Scrutiny Committee is bent upon to invalidate the caste claim of the petitioner. The petitioner produced as many as 30 documents including revenue record and pre-independence documents. It is a common knowledge that, there are many persons by the same name in the village. However, if there is further description, then only the person can be said to be related with the petitioner. There are details of Shamrao Naroba

Thakur in the documents produced by the petitioner and these documents are not disputed.

17. The learned counsel for the petitioner relied on *Pragati d/o. Pradip Shinde @ Pragati w/o. Vishwas Chavan* (supra) wherein it is held by this Court that “when the Committee come up with a specific case that there are adverse entries in respect of relatives of the petitioner, the Committee has to establish the connection or the relation with the petitioner,” which has a direct bearing as the connection has not been established.

18. The learned AGP for respondents/State relied on *Om S/o. Kishor Pawar* (supra), however, in the said matter, the petitioner was relying on the document of a person whose detailed description was not there in the document whereas birth record of that person was showing his caste as ‘Bhat’, in view of that, his claim

belonging of 'Thakur' was rejected, on account of which it is not applicable.

19. As such, in our considered opinion, the order passed by the Scrutiny Committee is erroneous, arbitrary and unjustifiable and it cannot sustain in the eyes of law. The petitioner has duly established that he belongs to 'Thakur' Scheduled Tribe and is entitled for caste validity certificate. As such, the impugned order is liable to be set aside. Accordingly, we proceed to pass the following order:-

ORDER

- 1) The Writ Petition is allowed.
- 2) The impugned order dated 14/08/2023 passed by respondent no. 2 - The Scheduled Tribe Certificate Scrutiny Committee, Amravati in the matter of the petitioner Sarthak s/o Digambar Gite, in Case No. सआ/अजप्रतस /अम /5/503/Edu/042023/209282 is hereby quashed and set aside.

3) It is declared that the petitioner has duly established that she belongs to 'Thakur' Scheduled Tribe, which is entry No. 44 in the Constitution (Scheduled Tribes) Order, 1950.

4) The respondent no. 2 – Scrutiny Committee to issue validity certificate of 'Thakur' Scheduled Tribe to the petitioner within a period of four weeks.

Rule is made absolute in the above terms. No costs.

(Judge)

(Judge)

B.T.Khapekar