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

WRIT PETITION NO. 906/2023

Virendrasingh S/o Ramsingh Thakur,
Aged about 53 years, Occ. Service,
R/o. Thakur Niwas, Near Bhagatsingh Square,
Small Umari, Akola 444005
.... **PETITIONER(S)**

// VERSUS //

(1) **Joint Commissioner & Vice-Chairman**,
Scheduled Tribe Caste Certificate Scrutiny Committee,
B-Wing, 1st Floor, Dr. Babasaheb Ambedkar Social Justice
Department, Camp Road, Amravati 444606

(2) **The Registrar**,
Dr. Punjabrao Krishi Vidyapeeth,
P.O. Krishi Nagar, Akola

(3) **The Associate Dean**,
College of Agricultural,
Akola
.... **RESPONDENT(S)**

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Mr. S.R. Narnaware, Advocate for the Petitioner(s)
Mr. H.R. Dhumale, AGP for the Respondent/State
Ms.D.Bhoyar, Adv h/f Mr. A.Sambre, Adv for Respondent No. 2
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CORAM : AVINASH G. GHAROTE & SMT. M.S. JAWALKAR, JJ.
OCTOBER 18, 2024

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ORAL JUDGMENT :- (PER: AVINASH G. GHAROTE, J.)

(1) **RULE**. Rule made returnable forthwith. Heard finally by consent of learned Counsel for the respective parties.

(2) The Petition questions the decision dated 28/12/2022 passed by the Respondent No. 1 - Caste Scrutiny Committee, Amravati rejecting the claim of the Petitioner of belonging to Scheduled Tribe 'Thakur'.

(3) With the assistance of the learned Counsel for the Petitioner and learned AGP, we have perused the record and the impugned decision.

(4) The rejection of the claim, is only on the basis of two entries one is dated 06/07/1956 which is the school admission register regarding the father of the Petitioner i.e. Ramsingh Bajrangsingh, in which the entry is recorded as 'Pardesi' and another entry dated 13/06/1952 is in respect of paternal aunt of

the Petitioner namely Pramila Bajrangsingh, in which the entry is recorded as 'Rajput'.

(5) Learned AGP is unable to point to any other reason for rejection of the claim apart from the affinity which has already been held to be not of any consequence in comparison with the old pre-constitutional entries. In the instant matter, it is not in dispute that Bajrangsingh is the grandfather of the Petitioner and Vimlabai was his daughter. The tree also indicates that Bhagwantisingh was the brother of Bajrangsingh. The tree also indicates that Ramsingh is the son of Bajrangsingh. The tree also indicates Balbhadrasingh to be the cousin grandfather of Bajrangsinsh. Though the impugned decision, at Paragraph No. 3 (Page No. 81), records the name of Balbhimsingh S/o Kalusingh, however, the death report at Record Page No. 117 of the R & P indicates that his name is Balbhadrasingh who had passed away on 05/02/1950 and belongs to the 'Thakur' community. Though Entry No. 17 in Paragraph No. 3 of the impugned decision (Page No. 81) records the name of Kamlaprasad S/o Dhuniasingh whose caste is recorded as 'Thakur' in his service book, his correct name is Kamtaprasad,

as is discernible from Page No. 126 of the R & P. It is perhaps because of the incorrect recording of the name that the remark has been given that his name is not in the genealogical tree.

(6) The relevant pre-constitutional entries, therefore, would be as under:-

अ.क्र	कागदपत्राचे स्वरुप	कागदत्रावरील व्यक्तीचे नांव	जमात	दिनांक	अर्जदारा शी नाते
११	नगरपालिका, अकोला सेवापट	बजरंगसिंह	ठाकुर	६.१२.१९५२	आजोबा
१२	मृत्यू अहवाल	बलभिमसिंग कालूसिंग	ठाकुर	५.२.१९५०	
१३	जन्माचा उतारा	बजरंगसिंग दुनियासिंग यांना एक मुलगी (विमल) झाल्याची नोंद	ठाकूर	१३.८.१९४१	आजोबा
१४	शाळा सोडण्याचे प्रमाणपत्र	विमलाबाई बजरंगसिंग	ठाकुर	१२.४.१९४८	आत्या
१५	जन्माचा उतारा	भगवंतीदिन दुनिया यांना एक मुलगा (रामचेस) झाल्याची नोंद	ठाकूर	१८.५.१९३९	चुलत आजोबा
१७	सेवापट	कमलाप्रसाद दुनियासिंह	ठाकुर	१९४४	वंशावळीत नाव नाही

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(7) The above position, therefore, would indicate that the pre–constitutional documents, unequivocally record the ancestors of the Petitioner as belonging to 'Thakur' community, which has been declared as a Scheduled Tribe under the Entry No. 44.

(8) In view of what has been held in **Anand Vs. Committee for Scrutiny and Verification of Tribe Claim, (2012) 1 SCC 113**, the entries in the pre-constitutional documents have to be given preference, we find that the old pre-constitutional documents record the Petitioner's ancestors as belonging to 'Thakur' community, on account of which, the denial of the claim by the Committee based upon two entries of the years 1952 and 1956 by ignoring the earlier entries cannot be sustained and the same is hereby quashed and set aside. The Petition is, therefore, **allowed**. It is declared that the Petitioner belongs to the Scheduled Tribe 'Thakur', Entry No. 44 in the Presidential Order, 1950. The Respondent No. 1 - Caste Scrutiny Committee is directed to grant certificate of validity to the Petitioner within a period of three weeks from today. R. & P. be returned back to the learned AGP.

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Rule is made absolute in the above terms. Pending Application(s), if any, stand(s) disposed of.

(SMT. M.S. JAWALKAR, J.) **(AVINASH G. GHAROTE, J.)**

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