



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

WRIT PETITION NO. 643/2023

Shubham S/o. Rambhau Ahirkar,
Age : 27 years, Occ. : Service,
R/o. Chandur, Akola, Tq. & Dist. Akola.

----PETITIONER

--VERSUS--

1. State of Maharashtra,
Through its Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai – 400032.
2. Government Polytechnic, Sakoli,
Tq. Sakoli, Dist. Bhandara,
Through its Principal.
3. Schedule Tribe Caste Certificate Scrutiny
Committee, Amravati Division, Old Bye Pass
Road, Chaprashipura Amravati,
Through its Vice Chairman/Jt. Commissioner. ----RESPONDENTS

Shri A. P. Kalmegh, Advocate for Petitioner.
Ms. S. S. Jachak, Assistant Government Pleader for Respondent Nos.1 to 3.

CORAM : A.S.CHANDURKAR AND MRS.VRUSHALI V. JOSHI, JJ.
DATED : SEPTEMBER 27, 2023.

JUDGMENT (PER : MRS. VRUSHALI V. JOSHI, J.)

1. **Rule.** Rule made returnable forthwith and heard finally with consent of the learned Counsel for the parties.
2. The petitioner has challenged the order of the Scrutiny Committee invalidating the claim of the petitioner of belonging to

“Thakur” Schedule Tribe. The petitioner belongs to “Thakur” Scheduled Tribe which is recognized at Serial No.44 in the list of Scheduled Tribe Notification. On the basis of the caste certificate, the petitioner has applied for the post of Lecturer, Electrical Engineering in Government Polytechnic College from Scheduled Tribe Category and she was selected from said category. It was required to submit the caste validity certificate duly issued by the respondent Committee. She had forwarded the proposal along with necessary documents for verification of tribe claim to respondent No.3 Committee. She had submitted documents prior to year 1950 related to paternal side blood relatives of petitioner wherein the entry of caste “Thakur” is clearly mentioned. After conducting the enquiry, Vigilance Cell submitted Vigilance Report along with show cause notice. The Vigilance Cell has raised objection in respect of documents of the year 1922 and in respect of affinity of the petitioner. The petitioner filed detailed written submission and thereby submitted that the entry in the documents of the year 1922 is related to grandaunt Panchfulla, which is proved from the family tree. The petitioner also filed the reply on the relevant issues. The respondent No.3 Committee by overlooking the aforesaid documents prior to the year 1950 and the law laid down by the Hon’ble Apex Court as well as this Court, invalidated the claim of the petitioner towards “Thakur” Scheduled Tribe.

3. The Committee has invalidated the tribe claim of the petitioner mainly on the ground that though the documents submitted by the petitioner shows entry of caste “Thakur”, but as per the said entry in the documents, it does not prove that the petitioner and his relatives belong to “Thakur” Scheduled Tribe. The entry of the year 1922 is singular, hence not related to the petitioner. The petitioner failed to prove the affinity towards “Thakur” Scheduled Tribe and not entitled to claim validity certificate of “Thakur” Scheduled Tribe on the ground of area restriction. Being aggrieved by the said order, the petitioner has filed this petition.

4. The learned Assistant Government Pleader opposed the petition stating that though the petitioner has filed the validity certificates of the cousin, the certificates of cousin are invalidated and still pending before the Caste Scrutiny Committee. Therefore, the Committee has not relied on the said validity certificates submitted by the petitioner. The only entry of the year 1922 on which the petitioner has relied on wherein the surname is not mentioned and therefore that entry is not reliable. The affinity is also not matched, therefore, the Scrutiny Committee has rightly rejected the claim.

5. Heard both the learned Counsel.

6. There is no contra-entry in the documents submitted by the petitioner. Only on the ground that the surname of one Krishna is not referred to in the entry of 1922 the said entry is not considered by the Scrutiny Committee. The Scrutiny Committee has doubted the relationship of Krishna with the petitioner.

7. After going through the record, it appears that there are various pre-constitutional entries of the year 1922, 1940 and 1948 which are not considered by the Scrutiny Committee. The validity certificates issued to the blood relatives of the petitioner are not considered. Though the claim of his cousin is invalidated, the said invalidation is set aside and the matter is pending before the Caste Scrutiny Committee. Considering the pre-independence entries and as there are validity certificates of blood relatives, which match with the genealogical tree, the Scrutiny Committee was not justified in disallowing the claim. The ratio of the decision in the case of *Priya Pramod Gajbe Vs. The State of Maharashtra and Ors. [Civil Appeal No.7117/2019]* decided on 11.07.2023 that more weightage has to be given to the pre-constitutional documents rather than the affinity test squarely applies to the facts of the present case. It is thus clear that the petitioner belongs to “Thakur” Scheduled Tribe. Hence, the writ petition is allowed. We, therefore pass the following order :

- i] The order dated 28.12.2022 passed by the Scrutiny Committee is set aside.
- ii] It is declared that the petitioner has proved that he belongs to "Thakur" Scheduled Tribe.
- iii] Within a period of four weeks of receiving the copy of this judgment, the Scrutiny Committee shall issue validity certificate to the petitioner. On production of the validity certificate, the respondent No.2 shall take appropriate steps with regard to the petitioner's services.

8. Rule is made absolute in the aforesaid terms with no order as to costs.

(MRS.VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

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