



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

Writ Petition No.7485/2022

Shyam Gajanan Bhuyar,  
Aged 18 years, Occ. Student,  
R/o Asara Colony, Akot, Dist. Akola .... Petitioner.

*-Versus-*

Scheduled Tribe Caste Certificate Scrutiny  
Committee, Old By Pass, Chaprashipura, Amravati  
Division, Amravati, through its Vice Chairman/  
Jt. Commissioner. .... Respondent.

Mr. R.S. Suryawanshi, Adv. for petitioner.  
Mr. A.A. Madiwale, AGP for respondent.

Coram : Nitin W. Sambre & Abhay J. Mantri, JJ.  
Dated : 18-01-2024.

**JUDGMENT** (Per Abhay J. Mantri, J.)

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

2. The challenge is to the order dated 11-04-2022, passed by the respondent-Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for short - *the 'Scrutiny Committee'*), thereby invalidating the claim of the petitioner that he belongs to '*Thakur*' Scheduled Tribe category, has preferred this petition.

3. It is a case of the petitioner that he belongs to the '*Thakur*' Scheduled Tribe which is listed at Serial No.44, in the Constitution (Scheduled Tribes) Order, 1950. On 30-06-2016, the Sub-Divisional Officer, Daryapur, District Amravati, issued a certificate in favour of the petitioner that he belongs to the '*Thakur*' Scheduled Tribe.

4. On 10-03-2021, he submitted his tribe claim to the respondent-Scrutiny Committee along with necessary documents prior to 1950, so also, he produced five Caste Validity Certificates issued in favour of his blood relatives for verification. He claimed that since the documents of the pre-constitutional era have more probative value, the petitioner is entitled to the '*Thakur*' Scheduled Tribe claim.

5. The Scrutiny Committee being dissatisfied with the documents referred the petitioner's case to the Vigilance Cell under the provisions of sub-rule (2) of Rule 12 of the Scheduled Tribe (Regulation of Issuance of Verification of Certificate) Rules, 2003 for a detailed enquiry into his Tribe's claim.

6. The Vigilance Cell, accordingly, conducted the enquiry and submitted its report to the Committee observing that the petitioner failed to prove affinity test to demonstrate that he belongs to the '*Thakur*' Scheduled Tribe as well as he failed to show that he belongs to the '*Thakur*' caste.

7. As a sequel of the above, the petitioner was served with a show cause notice by the respondent-Scrutiny Committee, calling upon him to explain the aforesaid discrepancy. The petitioner appeared before the Scrutiny Committee for a hearing on 12-11-2021, gave his statement, and submitted the documents in support of his claim.

8. The Scrutiny Committee after considering the Vigilance Cell Report, as well as a statement of the petitioner, and evaluating the material placed on record vide impugned order invalidated the claim of the petitioner that he belongs to the '*Thakur*' Scheduled Tribe. Being aggrieved by the same, the petitioner has preferred this petition.

9. The learned Counsel for the petitioner vehemently submitted that the petitioner in support of his claim has produced documents from the years 1915 to 1950 of his great-grandfather and grandfather on record. However, the respondent- Scrutiny Committee failed to consider those documents in its proper perspective and gave undue importance to the documents of the years 1920, 1922, 1924, and 1929. Wherein his great-grandfather's caste was shown as *Bhat-ji-Bra/Bhat* (भाट/भट). The respondent-Scrutiny Committee failed to consider the oldest documents of the year 1915, wherein the great-grandfather's caste was shown as '*Thakur*' so also the respondent-Scrutiny Committee failed to consider the five Validity Certificates granted in favour of his

blood relatives by the respective Scrutiny Committees and thereby erred in rejecting his claim. He has invited our attention to the orders of this Court passed in various petitions granting caste claims in favour of his blood relatives and submitted that he proved his caste that he belonged to the ' *Thakur*' Scheduled Tribe. Hence, he urged that the petition be allowed by setting aside the impugned order passed by the respondent- Scrutiny Committee.

10. To buttress his submissions, the learned Counsel for the petitioner has relied upon the judgment of the Hon'ble Apex Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs State of Maharashtra and others*, reported in *AIR 2023 SC 1657* and the orders passed in various writ petitions by this Court.

11. *Per contra*, learned Assistant Government Pleader canvassed that the petitioner failed to give an explanation in respect of four documents of the years 1920, 1922, 1924, and 1929, wherein the caste of his great grandfather was shown as *Bhat-ji-Bra/Bhat* and therefore passing of the order by the respondent-Scrutiny Committee is just and proper. He further submitted that this Court has rejected the petition of one *Pushpsheela Bhuyar* who is in blood relation to the petitioner. Against the said order, Pushpasheela preferred a Special Leave Petition before the Hon'ble Apex Court and the same is pending. Therefore, he urged that passing of the orders by this

Court in other petitions is not helpful for the petitioner in support of his claim. He has further propounded that the petitioner failed to prove the affinity test. Lastly, he has submitted that '*Thakur*' has different meanings i.e. '*Thakur*' is a caste, '*Thakur*' is a tribe, '*Thakur*' is an Honourable title to high caste people, '*Thakur*' is a title to 'Rajput', Maratha, and Kshatriya people and '*Thakur*' is also second name/title of 'Bhat and Brahmabhat' caste people and therefore the petitioner failed to prove that he belongs to '*Thakur*' Scheduled Tribe. Hence, he has prayed for the dismissal of the petition.

12. We have appreciated the submissions of the learned Counsel for both parties as well as gone through the judgment in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* (supra) and the orders passed in various writ petitions by this Court.

13. On perusal of documents on record it seems, that the petitioner has produced the documents dated **01-03-1915**, 14-07-1915, 29-03-1927, 27-09-1929, 06-07-1955, 08-07-1955, 18-06-1942 and 29-06-1946 which pertain to his ancestors i.e. grandfather, great-grandfather, uncle, and cousin uncle. In all those documents, the caste of his ancestors is mentioned as '*Thakur*'. It is pertinent to note that the respondent-Scrutiny Committee or vigilance cell has not disputed those documents. However, the respondent-Scrutiny Committee while considering the claim of the petitioner has

given undue importance to the documents of the years 1920, 1922, 1924, and 1929 in respect of his great-grandfather and grandfather, wherein the caste of his great-grandfather was shown as *Bhat-ji-Bra/Bhat*. It is to be noted that as per the law laid down in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* (supra), *and Anand vs Committee for Scrutiny and Verification of Tribe Claims and others*, reported in *2011(6) Mh.L.J. 919* the respondent-Scrutiny Committee bound to consider the oldest documents of the year 1915 as those documents have greater probative value than the other documents. The Vigilance Cell has also inspected those documents and found that the entries therein are correct. However, the respondent- Scrutiny Committee ignored those documents while considering the claim of the petitioner.

14. The second crucial point is that the petitioner has produced five caste Validity Certificates issued by the various Committees in favour of his blood relatives. However, the respondent-scrutiny Committee ignored those Validity Certificates. In fact, as per the dictum laid down 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), the respondent Scrutiny committee ought not to have rejected the claim of the petitioner without assigning any cogent reason but it was incumbent on the respondent-Scrutiny Committee to issue Validity Certificate in favour of the petitioner.

15. In the aforesaid background, having regard to the pre-

constitutional entries of 'Thakur' in the blood relations of the petitioner as well as the issuance of the caste Validity Certificates in favour of the blood relatives of the petitioner, it is revealed that the petitioner's claim for caste validity ought not to have been rejected when; (a) the relationship with the aforesaid persons is not in dispute and (b) the affinity test cannot be termed as a litmus test in view of the judgment of the Hon'ble Apex Court in the case of Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra).

*Furthermore, as per the law laid down in the aforesaid judgment "affinity test cannot be termed as a litmus test particularly; when the Pre-Constitutional documents are existing and placed on record. Moreover, the said test cannot be said to be conclusive to find out whether the petitioner belongs to the 'Thakur' Scheduled Tribe or not".*

16. Besides, it reveals that the applicant in support of his claim has produced five caste Validity Certificates issued in favour of his blood relatives by the respective Scrutiny Committees. The Vigilance Cell or the respondent-Scrutiny Committee have not disputed the said certificates but only contended that the applicant failed to produce a pedigree to show that those Validity Certificate holders are not blood relatives of the petitioner. However, it appears from the record that on 18-02-2021, the petitioner produced the pedigree of his great-grandfather namely Ambadas along with the affidavit, wherein the names of the five Validity Certificate holders are

mentioned as his blood relatives. It also seems from the opinion dated 31-12-2021 given by the Vigilance Officer that he has received the pedigree submitted by the petitioner. The respondent-Scrutiny Committee in its order mentioned that they have received the affidavit (*Namuna- 'F'*)(at sr. no.4) of the applicant dated 04-03-2021. In नमुना-‘फ’ (*Namuna- 'F'*) he has mentioned the pedigree, however, the respondent-Scrutiny Committee has not considered the said pedigree in its proper perspective.

*Furthermore*, the Scrutiny Committee ignored the five Validity Certificates issued in favour of the blood relatives of the petitioner. In fact, the case in hand covered by the dictum laid down in the case of *Apoorva d/o Vinay Nichale* (supra), they ought not to have refused to grant Validity Certificate in favour of the petitioner. But The Scrutiny Committee is required to issue a caste certificate in favour of the petitioner unless the Scrutiny Committee finds that the validity certificates of such relatives have been obtained by fraud or were issued without any jurisdiction. In such eventuality, there is no reason for the Scrutiny Committee to discard those certificates.

17. *In addition*, the petitioner has produced the orders passed by this Court in Writ Petition No.929/2018 (Atul), Writ Petition No.4957/2019 (Smt. Sarita and another vs. The Scheduled Tribes Caste Certificate Scrutiny Committee and another) and Writ Petition No.5186/2019 (Aalok vs. Scheduled Tribes Caste Certificate Scrutiny Committee and another).



Perused the said orders/ judgments. It appears that in all the above three judgments, this Court after considering the claim of the petitioners therein has set aside the orders passed by the respondent-Scrutiny Committee and allowed the petitions, and directed the respondent-Scrutiny Committee to issue Validity Certificate in their favour. The names of the above-mentioned petitioners in those petitions are mentioned in the pedigree given by the petitioner as his blood relatives and therefore also, in our view, the petitioner is entitled to the relief as prayed for.

18. Having regard to the aforesaid discussion and documents on record, to sum up, it clearly reveals that the petitioner in support of his claim has relied upon the document dated 01-03-1915 i.e. the extract of the Revenue/Birth Register of his great-grandfather, wherein the caste of his great-grandfather was mentioned as '**Thakur**'. The said document is the oldest one in all the documents. Therefore, it has a greater probative value than the other four documents on which the respondent-scrutiny Committee has relied. Secondly, the petitioner has produced five caste Validity Certificates issued in favour of his blood relatives, and therefore as per the law laid down in the case of Apoorva d/o Vinay Nichale (supra), the petitioner's claim ought not to have been refused and the same status shall be awarded to the petitioner that he belongs to '**Thakur**' Scheduled Tribe. Thus, his case is covered by the law laid down in the said judgment. Likewise, this Court in three writ petitions mentioned above has passed the orders by

directing the Scrutiny Committees to issue Validity Certificates in favour of the petitioners therein who are in blood relations of the petitioner. As a result, it seems that the findings given by the respondent-Scrutiny Committee are contrary to the documents on record and the law laid down by this Court in the case of *Apoorva Nichale* (supra), as well as the orders passed in other writ petitions mentioned above. 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.

19. Needless to clarify, the respondent-Scrutiny Committee has mentioned that the Special Leave Petition is pending before the Hon'ble Apex Court against the order passed by this Court in the case of *Pushpsheela*. Hence, considering the aforesaid fact, we deem it appropriate to allow the petition in the following terms :-

- (a) The impugned order dated 11-04-2022 passed by the respondent-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 category.
- (c) Within four weeks from the receipt of a copy of this judgment, the respondent- Scrutiny Committee shall issue a Caste Validity Certificate in favour of the petitioner.
- (d) It is made clear that the issuance of the Caste Validity

Certificate in favour of the petitioner would be subject to the outcome of the Special Leave Petition No.026471/2018, pending before the Hon'ble Apex Court.

20. Rule is made absolute in the above terms with no order as to costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J)

*Deshmukh*