



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

WRIT PETITION NO.2071/2021

1. Shri Sunil Ramesh Wankhede,
Aged about 45 years, Occ. Service as Gram Sevak,
R/o. Gajanan Nagar, Nagpur.
2. Ku. Sneha Suneel Wankhede,
Aged 16 years, Occ. Student,
through Natural Guardian Shri Sunil Wankhede,
R/o. Gajanan Nagar, Nagpur.

PETITIONERS

VERSUS

1. The Scheduled Tribes Caste Certificate
Scrutiny Committee,
Chaprasipura, Amravati.
2. The Zilla Parishad Nagpur,
through its Chief Executive Officer

RESPONDENTS

Mr. R. S. Parsodkar, Advocate for Petitioners.
Ms H. N. Jaipurkar, A.G.P. for Respondent(s)/State.
Mr. A. V. Mankwade (Borkute), Advocate for Respondent No.2.

CORAM : **SANDEEP K. SHINDE AND**
MRS.VRUSHALI V. JOSHI,JJ.

RESERVED ON : **20/12/2022.**

PRONOUNCED ON : **23/12/2022**

JUDGMENT : [PER : MRS. VRUSHALI V. JOSHI, J.]

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

3. The challenge in this petition is to the common order dated 20.04.2021 passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati invalidating the claim of the petitioner Nos.1 and 2 for 'Thakur' Schedule Tribe which is an entry at Serial No.44 of the Constitution (Scheduled Tribes) Order, 1950. The invalidation is on the ground that neither documents substantiate tribe claim nor Petitioner could answer the affinity test, besides area restrictions.

4. Petitioner No.1 is father of petitioner No.2, whereas Maruti Bahiraji was great-grand father of petitioner No.1. This could be seen from the Family Tree produced on record. In support of validation claim, the petitioners, produced as many as twelve documents; out of which two were relating to his great-grand father, in the shape of the revenue extracts, dated 04.09.1912 and 04.11.1922. These documents record caste of Maruti Bahiraji as 'Thakur'. The third document is a copy of plaint in Regular Civil Suit No.446/1923. It shows great-grand father, of the petitioner No.1, had instituted the suit against one, Gambhiji Chandrabhanji. The plaint endorses the caste of Maruti Bahiraji as 'Thakur'. These documents have high probative value, being pre-independence documents. Committee did not dispute these documents. Besides, three more documents of cousin grand father and one of Ramchandra Maruti grand father of petitioner No.1, were produced of September 1929, March 1934 and March 1932. These four documents

record caste of petitioner's forefather's as, 'Thakur'. The Family Tree of the petitioners is not in dispute. In spite of the aforestated documents, the Scrutiny Committee relied on two documents produced by the vigilance cell which show the caste of great-grand father of petitioner No.1 recorded as 'Bhat'. The petitioner No.1 in reply to vigilance report denied the relationship with the persons whose documents were produced. Yet the Committee by overlooking at least five pre-independence documents and a copy of a plaint erroneously invalidated the claim of the petitioners. In consideration of above facts and evidence on record, we hold that petitioners have established their caste as 'Thakur'.

5. Insofar as failure to establish affinity test is concerned, it may be stated that in view of the decision of the Hon'ble Apex Court in ***Anand Vs. Committee of Scrutiny and Verification of Tribe Claims and Others*** reported in ***2011 (6) Mh.L.J. 919***, the affinity test can be used only a corroborative piece of evidence and, therefore, the Committee could not have invalidated the petitioners' claim for failing in affinity test, particularly when the documentary evidence has established that they belongs to a 'Thakur' caste. So far as the area restriction is concerned, the learned Counsel would rely on the judgment of the Hon'ble Apex Court in the case of ***Jaywant Dilip Pawar Vs. State of Maharashtra and Others*** reported in ***2018(5) All M R 975 (S.C.)***.

6. In consideration of above facts and pre-independence documents showing caste recorded in the official documents of their ancestral as 'Thakur', we quashed and set aside the impugned order dated 20.04.2021 and hence the following order :

ORDER

- i] The order dated 20.04.2021 passed by the Scheduled Tribe Certificate Scrutiny Committee, Amravati is hereby quashed and set aside.
- ii] The claim of the petitioner Nos.1 and 2 for Thakur-Scheduled Tribe which is an entry at Serial No.44 of the Constitution (Scheduled Tribes) Order, 1950, is held to be valid. Accordingly, the respondent – Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is directed to issue forthwith the Caste Validity Certificate of Thakur- Scheduled Tribe in the name of the petitioner No.2.

7. The Rule is made absolute in the aforesaid terms. No orders as to costs.

8. Pending Civil Application(s), if any, stand(s) disposed of.

(MRS. VRUSHALI V. JOSHI, J.)

(SANDEEP K. SHINDE, J.)

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