



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3834 OF 2010

Yashwant Laxman Ingale

Age : 42 years, Occ. : Service,
presently working as Junior Assistant,
Zilla Parishad, Aurangabad,
R/o "Renuka", Garkheda Area, Aurangabad.

...PETITIONER

...VERSUS...

1. The State of Maharashtra through its Secretary, Tribal Development Department, Mantralaya, Mumbai.
2. The Zilla Parishad, Aurangabad through its Chief Executive Officer, Aurangabad.
3. The Committee for Scrutiny & Verification of Tribe Claims, Nagpur Division, Nagpur.

...RESPONDENTS

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- Adv. S. R. Barlinge for the Petitioner
 - Mr. N. D. Batule, AGP for State
 - Adv. V. C. Patil h/f. Adv. U. B. Bondar for Respondent No. 2
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WITH
CIVIL APPLICATION NO. 8575 OF 2011
IN WP/3834/2010

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CORAM : NITIN B. SURYAWANSHI &
VAISHALI PATIL – JADHAV, JJ.

DATE : 19th NOVEMBER, 2025

ORAL JUDGMENT: [Per Nitin B. Suryawanshi, J.]

. Rule. Rule made returnable forthwith. Heard finally at the admission stage.

2. This petition questions the decision of the respondent – Scrutiny Committee dated 15.04.2010, whereby the claim of the petitioner of belonging to ‘Thakur, Scheduled Tribe’ has been turned down. In support of his claim, the petitioner has relied upon following pre-constitutional documents: (i) Attested xerox copy of primary school leaving certificate of his father Shri. Laxman Mahadeo, issued by the Headmaster, Municipal Council Primary Marathi School No. 1, Daryapur Dist. Amravati, wherein the caste is mentioned as ‘Thakur’ on 19.06.1940. (ii) The extract of the primary school admission register of petitioner’s real elder paternal uncle, Shri Shriram Mahadeo and father Shri Laxman Mahadeo, issued by the Headmaster, Dr. Babasaheb Ambedkar Municipal Council Higher Primary Marathi School No. 1 Daryapur, Dist. Amravati, wherein their caste is mentioned as ‘Thakur’ respectively on 03.07.1936 and 19.06.1940. Apart from these documents, the petitioner relied upon 28 other documents in support of his claim. Vigilance Cell has verified these documents during enquiry and found them to be true. The pre-constitutional documents and other documents are not accepted by the Committee on the ground that candidate and his real elder paternal uncle have utterly failed in the affinity test.

3. During the course of the arguments, petitioner has relied upon the order passed by Nagpur Bench in the case of Digambar Shriram

Ingle, real paternal cousin of the petitioner. This Court has made following observations in the said order :

“5. The petitioner has produced in all 21 documents as referred in the impugned order to support his claim of “Thakur” caste. Particularly, emphasis is laid on school living certificate of petitioner’s father Shriram dated 03.07.1936, Dakhal Khari Register of Shriram dated 01.07.1936, School Leaving Certificate of petitioner’s uncle Laxman dated 19.06.1940. All these documents shows the entry of “Thakur” caste which bears significance as they are pre-constitutional once. The Committee never doubted about the genuineness of these documents. Apparently, only on the failure in affinity test, the caste claim has been rejected.

6. The learned counsel appearing for petitioner relied on the decision in case of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims (2012)(1) SCC 113**, wherein it is ruled that the affinity test may not be regarded as litmus test for establishing the link of the petitioner with a Scheduled Tribe. The affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim. Besides that the petitioner relied on the decision of this Court **Jaywant Dilip Pawar Vs. State of Maharashtra & ors, 2018 (5) ALL MR 975 (S.C.)**, wherein the area restriction has been removed.

7. We have examined the impugned order which does not assign substantial reasons to discard the pre-constitutional documents of which genuineness has not been doubted. Particularly document of the year 1936 bears a primacy. It is well settled that more importance shall be given to the pre-constitutional documents. Besides that series of documents have been produced showing the entry of “Thakur” caste. No adverse documents have been procured and thus, it is difficult to accept the view expressed by the Committee.

8. Having regard to the pre-constitutional documents and other material, we are of the considered opinion that the Committee failed in error in rejecting the petitioner's caste claim. In view of that, petition deserves to be allowed, hence following order :-

(I) Petition is allowed. We hereby quash and set aside the impugned order 24.01.2023 passed by respondent No.1 Committee.

(II) We hereby declare that the petitioner has duly established that he belongs to "Thakur" Scheduled Tribe which is enlisted at Serial No. 44 in the Constitution (Scheduled Tribes) Order, 1950

(III) Respondent No.1 Committee is directed to issue caste validity certificate to the petitioner of "Thakur" Scheduled Tribe within four weeks from the date of communication of this order.

(IV) Petition stands disposed of in above terms."

4. Learned AGP has vehemently opposed the petition contending that while arguing the case, Digambar has not pointed out the order passed in the case of his real brother Dattatraya S/o Shriram Ingle in Writ Petition No. 1614 of 2003, whereby the Nagpur Bench had upheld the order of the Scrutiny Committee invalidating his tribe claim and he was directed to give undertaking that neither he nor his progeny shall claim the benefit or status as 'Thakur, Scheduled Tribe'. He further submitted that Special Leave Petition filed before the Apex Court by Dattatraya was also dismissed. He, therefore, submits that in this view of

the matter, the Committee is contemplating to challenge the order passed in Digambar's case before the Apex Court.

5. Replying the said argument, learned advocate for the petitioner submitted that Dattatraya's case was decided as per the legal position prevailing at that time, he was required to pass the affinity test. However, this position has changed after the decision of ***Mah. Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Others***¹

6. It is pertinent to note that in Nagpur Bench decision in Dattatraya's case there is no reference of any pre-constitutional document.

7. From the order passed in Digambar's case it is evident that pre-constitutional documents of petitioner's father Laxman dated 19.06.1940 and of his paternal uncle Shriram dated 03.07.1936 wherein their caste is mentioned as 'Thakur' were considered by this Court and it is also observed that only because the petitioner therein failed in affinity test, his caste claim was rejected.

8. Another ground on which the Committee has rejected the claim of the petitioner is area restriction. The legal position is settled on this point after the judgment in the case of ***Jaywant Dilip Pawar Vs. State***

1 2023 SCC OnLine SC 326
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*of Maharashtra & Ors.*² holding that the condition of area restriction is removed. Therefore, this reason assigned by the Committee is not sustainable. It is also a matter of record that the Education Officer has corrected the entry of 'Brahmabhat' to 'Thakur' in the school record of the petitioner under Rule 26.4 of the Secondary Schools Code.

9. The Committee has also rejected the claim of the petitioner on the ground that surnames of the petitioner's community are Pawar, Nikam, Chauhan, Shinde, Ingle, Wagh, Thakur, Kalse, etc. which are not the surnames of 'Thakur, Scheduled Tribe'. In view of pre-constitutional documents and the decision in Digambar's case, this ground is not sufficient to reject the claim of the petitioner.

10. For the above-mentioned reasons, the impugned decision of the Committee cannot be sustained. Hence, the following order :

ORDER

- (i) The writ petition is allowed.
- (ii) The impugned decision of the Committee is hereby quashed and set aside.
- (iii) The Committee is directed to issue validity certificate to the petitioner of 'Thakur, Scheduled Tribe' within a period of eight weeks from the date of uploading of this Order.

² 2018(5) ALL MR 975 (S.C.)

(iv) Respondent No. 2 is directed to release the retiral benefits of the petitioner within eight weeks from the date of uploading of this order.

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

12. Pending Civil Application, if any, stands disposed of.

[VAISHALI PATIL – JADHAV, J.]

[NITIN B. SURYAWANSHI, J.]