

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Writ Petition No. 5029 of 2006

Sangita Bhikaji Masage

... Petitioner

V/s.

State of Maharashtra and others

... Respondents.

Mr. R.K.Mendadkar a/w. Priyanka Shaw, Jayshree Mendadkar,
Siddhant Sawai, Jagdish Kawale, Prajakta Pashtre Advocate for the
Petitioner.

Mr. N.C. Walimbe, Addl. G.P. a/w. Mr. G.R.Raghuwanshi, AGP for
the Respondents-State.

**CORAM : M.S. KARNIK &
S.M. MODAK, JJ.**

DATE : 13th January 2026.

Oral Judgment (Per M.S. Karnik, J) :

We have heard Mr. Mendadkar, the learned counsel appearing for the Petitioner and Mr. Walimbe, the learned AGP appearing for the Respondents-State, argued in support of the impugned order.

2. Our attention is invited to order dated 12th December 2025 passed by the Hon'ble Supreme Court.

3. Brief background of the matter is as follows: The rejection of the caste claim of the Petitioner by the Caste Scrutiny Committee was challenged by the Petitioner by filing a Writ Petition before this

Court, which came to be dismissed. Aggrieved by the said order, the Petitioner preferred an Appeal before the Hon'ble Supreme Court. Vide order dated 12th December 2025, the Hon'ble Supreme Court partly allowed the Appeal, set aside the order passed by this Court, and remanded the matter for fresh consideration. The relevant paragraphs from the order dated 12th December 2025 are reproduced hereinbelow for ready reference.

“1. The applications for substitution are allowed after condoning the delay and setting aside abatement, if any, subject to all just exceptions. Applications for intervention/impleadment are also allowed, subject to all just exceptions.

2. The issue that falls for consideration in these cases is whether the appellants or other similarly placed persons, who claim themselves belonging to 'Thakur' Scheduled Tribe, are entitled to claim the benefits as would enure to the said Scheduled Tribe. It may be noticed that the Nagpur Bench of the High Court of Judicature at Bombay has, vide the impugned judgment, upheld the cancellation of caste certificates of a large number of persons because they did not fulfil the 'affinity test' for being considered as part of the Scheduled Tribe.

3. It is not in dispute that a three-Judge Bench of this Court, vide judgment dated 24.03.2023 (passed in the instant proceedings). reported in (2023) 16 SCC 415, has held as follows:

“ 36. Thus, to conclude, we hold that:

(a) Only when the Scrutiny Committee after holding an enquiry is not satisfied with the material produced by the applicant, the case can be referred to Vigilance Cell. While referring the case to Vigilance Cell, the Scrutiny Committee must record brief reasons for coming to the conclusion that it is not satisfied with the material produced by the applicant. Only after a case is referred to the Vigilance Cell for making enquiry, an occasion for the conduct of affinity test will arise.

(b) For the reasons which we have recorded, affinity test cannot be conclusive either way. When an affinity test is conducted by the Vigilance Cell, the result of the test along with all other material on record having probative value will have to be taken into consideration by the Scrutiny Committee for deciding will the caste validity claim; and

(c) In short, affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of correctness of a caste or tribe claim in every case.”

4. It may be seen from the above that this Court has categorically ruled that only when the Scrutiny Committee after holding an inquiry is not satisfied with the material produced by applicant/claimant (like the appellants), the case can be referred to the Vigilance Cell. For doing so, the Scrutiny Committee is obligated to record brief reasons in

support of the conclusion that it was not satisfied with the material produced by the applicant. The occasion for holding a further fact-finding inquiry by the Vigilance Cell, would arise only when preliminary test prescribed for the Screening Committee has been met with.

5. In light of the cited decision, we are satisfied that all these cases require a fresh consideration at the hands of the High Court, especially to determine whether the procedure adopted by the Scrutiny Committee, the consequential further inquiry, if any, by the Vigilance Cell, and the final conclusion arrived by the Scrutiny Committee are in consonance with the parameters laid down by this Court. These appeals are, accordingly, partly allowed, the judgment and orders of the High Court are set aside, and the cases are remanded to the High Court. The Writ Petitions filed by the appellants/claimants shall stand revived for being heard and decided afresh.

6. It is clarified that the questions of law, which are not answered by the above-cited judgment, as well as other subsequent decisions of this Court, are kept open, and the parties will be at liberty to raise all their contentions before the High Court. It also goes without saying that in this renewed consideration, the parties may rely upon additional documents, if any, and the High Court may accord them an opportunity for the same.”

4. The caste claim of the Petitioner as belonging to the Thakar Scheduled tribe is invalidated. The learned counsel submitted that during the pendency of the SLP before the Hon'ble Supreme Court as many as 4 close blood relatives of the Petitioner from the paternal side have been issued with the certificate of validity as belonging to Thakar Scheduled Tribe. Our attention is invited to Page-7 of the compilation which has been tendered today to demonstrate that a certificate of validity has been granted in favour of Dattguru Bhikaji Masage on 14th August 2019 as belonging to 'Thakar Scheduled Tribe'. Dattaguru is a blood brother of the Petitioner. It is important to note the law laid down by this Court in the case of *Apoorva d/o Vinay Nichale v/s. Divisional Caste Certificate Scrutiny Committee No.1 and others*¹. Paragraph No.4 of which reads thus:

“4. We have considered the matter and we are of the view that the petitioner's caste claim that she belongs to Kanjar Bhat-Nomadic Tribe ought to have been accepted by the Committee merely on the basis that identical caste claim of her sister that she belongs to Kanjar Bhat has been allowed by the Committee, even apart from the Government Resolution. We are of the opinion that the guidelines provided by the said Govt. Resolution are sound and based on sound principles. It would indeed be chaotic otherwise. If the relationship by blood is established or not doubted, and one such relative has been confirmed as belonging to a particular caste, there is

1 2010 (6) Mh.L.J.

no reason why public time or money should be spent in the committee testing the same evidence and making the same conclusion unless of course the Committee finds on the evidence that the validity of the certificate of such relation has been obtained by fraud.”

In view of above observations, we would not have otherwise hesitated to issue direction to the Committee to issue the certificate of validity to the Petitioner as well. However, the family tree which the Petitioner relies upon at Page-9 of the paper-book is produced in this Court for the first time, which needs to be verified in the first instance by the Scrutiny Committee.

5. The Hon’ble Supreme Court in ***Maharashtra Adiwasi Jamat Saurakshan Samiti v/s. State of Maharashtra***² held that affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of correctness of a caste or tribe claim in every case.

6. In *Maharashtra Adiwasi* (supra), the following three essential prerequisites for granting caste validity certificates were outlined by Their Lordships at the paragraph 24:

- (i) The applicant must establish a clear and specific relationship with the person in whose favour the validity certificate has been issued;
- (ii) The Scrutiny Committee must verify whether the

2 (2023) 16 SCC 415

validity certificate was granted to the applicant's blood relative after due enquiry and in accordance with prescribed procedure; and

(iii) The Scrutiny Committee must ascertain the genuineness of the validity certificate relied upon.

7. We find that it is submission of learned counsel for the Petitioner that the certificate of validity in favour of Petitioner's blood brother Dattaguru and other blood relatives is issued after holding a due enquiry. If the Petitioner is in a position to demonstrate before the Committee that Dattaguru is her blood brother, then obviously the Committee is bound to issue a certificate of validity in her favour.

8. Learned Counsel for the Petitioner requested that the matter be remanded to the Scrutiny Committee for fresh consideration on the basis of the aforementioned grounds. It is for this reason that we are inclined to remit the matter back to the Scrutiny Committee for a fresh consideration to verify this aspect.

9. The impugned order is quashed and set aside for deciding the claim afresh in the light of the aforesaid observations.

10. The Petitioner to appear before the Committee on 22nd January 2026 at 11.00 a.m.. The Petitioner is at liberty to file additional documents and additional affidavits in support of her caste claim. As the scope of enquiry is quite limited, the Committee to

decide the caste claim expeditiously and in any case within a period of 8 weeks from 22nd January 2026. The Committee to decide the caste claim without being influenced by the observations made in the impugned order which is set aside. The Petitioner to co-operate with the Committee and shall not ask for unnecessary adjournment.

11. The Writ Petition is disposed of.

(S.M.MODAK,J.)

(M.S.KARNIK, J.)