

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

WRIT PETITION NO. 11346 OF 2011

Vina Eknath Saindane]
@ Vijaya Pramod Thakur,]
 aged 43 Years, residing at 11, Shivsagar Aptt.]
 Pathare Park, Ambarnath (East), District-Thane].....Petitioner

Versus

1. **State of Maharashtra**]
 through its Secretary, Tribal Development]
 Department, Mantralaya,]
 Mumbai-400 032.]
2. **Scheduled Tribe Certificate Scrutiny**]
Committee, Nandurbar Region,]
 Nandurbar through its Member]
 Secretary having its office at]
 Nandurbar, District Nandurbar.]
3. **Brihanmumbai Mahanagarpalika**]
through its Chief Accountant (W & S Deptt.)]
 Room No.300, 3rd Floor,]
 Mahanagarpalika Marg, Boribandar,]
 Mumbai:400 001.]
4. **Executive Magistrate, Amalner,**]
 District : Jalgaon.]
5. **Mumbai Housing and Area Development**]
Board, the Regional Unit of Maharashtra Housing]
and Area Development Authority]
 Having its office at Griha Nirman Bhavan, Kala]
 Nagar, Bandra (E)]
 Mumbai : 400 051.].....Respondents

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Mr. R. K. Mendadkar a/w Ms. Priyanka Shaw, for the Petitioner.

Smt. V. R. Raje, A.G.P., for the Respondent-State.

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CORAM : M. S. KARNIK &
SANDESH D.PATIL, JJ.

RESERVED ON : 17th SEPTEMBER 2026

PRONOUNCED ON : 24th SEPTEMBER 2026

JUDGMENT [PER : SANDESH D. PATIL, J.]

1. **Rule.** Rule made returnable forthwith and with the consent of the parties matter is taken up for final hearing.

2. By the present Writ Petition, the Petitioner is challenging, the judgment and order dated 7th June 2011 passed by the Respondent No.2-Scheduled Tribe Certificate Scrutiny Committee, Nandurbar Region, with further direction, to the Committee, to issue the Caste Validity Certificate. The Respondent No.3-Chief Accountant, Brihanmumbai, Mahanagarpalika on 23rd December, 2005 referred the case of Petitioner to Respondent No.2 for verification of tribe claim towards her tribe- 'Thakur, Scheduled Tribe' for service purpose through Chief Accountant, Brihanmumbai, Mahanagarparika. The Petitioner had obtained Caste Certificate from the Executive Magistrate, Amalner on 22nd April, 1983. The Caste Certificate was referred to the Scheduled Tribe Certificate Scrutiny Committee, Nandurbar Region for verification and the same was rejected. The Hon'ble Supreme Court in *Maharashtra Adiwasi Thakur Jamat*

*Swarakshan Samiti V/s. State of Maharashtra and Ors.*¹, had remanded the matter back to this Court vide Order dated 12th December, 2025 for the purpose of deciding the same in light of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samita (supra)*. This is how the matter is placed before us.

3. The learned Counsel appearing for the Petitioner submitted that the Petitioner had placed on record, various preconstitutional documents. He submitted that one such document is the birth date extract of the father of Petitioner issued by the Birth and Death Register Municipality Chopde, in the year 1939 where the name of the Grandfather of the Petitioner was recorded as belonging to 'Thakur'. That document is at 'Exhibit-B' to this petition. He relied upon the document which is a School Leaving Certificate which mentions that the student Eknath Namdev Saindane (who is the father of the Petitioner) belongs to Hindu Thakur Caste, was born on 5th March 1939 and he left the school on 10th March, 1949. He relied upon the document that is the service book of the Petitioner's father wherein the Caste is recorded as Thakur Scheduled Tribe. The learned Counsel for the Petitioner contended that the only reason on

1 (2023) 16 SCC 415

which the caste claim of the Petitioner was invalidated was that the Petitioner could not pass the affinity test. He submitted that this is contrary to the judgment of the Hon'ble Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)***. He submitted that the pre-constitutional document was not considered and therefore the present Petition be allowed and the impugned Order be quashed and set aside.

4. The learned Counsel appearing for the Respondent-State submitted that the Petitioner though relied upon several documents in support of the case, the case of the Petitioner could not stand the affinity test which was conducted. Learned Counsel for the Respondent-State pointed out that notwithstanding the documents, the Petitioner did not did not satisfy the affinity test. The test of socio-cultural affinity being *sine qua non* in light of the judgment of the Hon'ble Supreme Court in the matter of state of ***State of Maharashtra Vs. Ravi Prakash Parmar***², the impugned Judgment and Order was correctly passed.

5. We have heard the learned Counsel appearing for the parties. We have also perused the documents relied upon by both the parties.

² (2007) 1 SCC 80

6. The Petitioner has produced on record, the Birth Certificate of her father, where the name of her grandfather is mentioned as Namdev Nathu and his caste is mentioned as Thakur. This document was issued in the year 1939. There is yet another document, namely, the School Leaving Certificate of the father of the Petitioner, namely, Eknath Namdev Saindane wherein his birth date is mentioned as 5th March, 1939 and his caste is mentioned as Hindu Thakur. The date of joining of the School is mentioned as 10th March, 1949. These two documents are of paramount importance. These documents are of pre-constitutional period. It is pertinent to note that the presidential order wherein the the tribe Thakur was inserted as Scheduled Tribe was notified for the first time on 6th September, 1950. Before that date, there was no occasion, of there being a mention of Thakur as Scheduled Tribe. These two documents undisputedly show that the Petitioner belongs to Thakur. These two documents were the most important documents which were relevant for the purpose of deciding the subject matter in hand. As opposed to these documents, without giving any importance to these two documents, the Respondents have considered the affinity test as the litmus test. The Respondents have come to a conclusion that the Petitioner could not

withstand the affinity test, and this ground only, the caste claim of the Petitioner was rejected by the Caste Scrutiny Committee.

7. We have perused the impugned Order. Paragraph no.1 of the impugned Order which is answer to Issue No.1 clearly mentions that the document, more particularly at Serial No.9 (which was the document of birth extract of the father of the Petitioner), the document at Sr. No.14 (which was the School Leaving Certificate of the father of the Petitioner) were before the Caste Scrutiny Committee. The said document in spite of the fact are referred and relied by the Caste Scrutiny Committee, however, the Committee mentions that there are no document which describe Petitioner or her relatives as Thakur Scheduled Tribe. The Caste Scrutiny Committee relying upon the judgment in a matter of ***Madhuri Patil Vs. Commr, Tribal Development***³, held that without the test of socio-cultural affinity, these documents are not of any importance. Thus the Caste Scrutiny Committee has committed a serious error. The Hon'ble Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)*** has observed as under:

3 (1994) 6 SCC 241

“22. It is not possible to exhaustively lay down in which cases the Scrutiny Committee must refer the case to vigilance cell. One of the tests is as laid down in Madhuri Patil [Madhuri Patil v. Commr., Tribal Development, (1994) 6 SCC 241 : 1994 SCC (L&S) 1349] . It lays down that the documents of the pre-Constitution period showing the caste of the applicant and their ancestors have got the highest probative value. For example, if an applicant is able to produce authentic and genuine documents of the pre-Constitution period showing that he belongs to a tribal community, there is no reason to discard his claim as prior to 1950, there were no reservations provided to the Tribes included in the ST Order. In such a case, a reference to vigilance cell is not warranted at all.

23. In the impugned judgment in Civil Appeal No. 2502 of 2022 (Shilpa Vishnu Thakur case [Shilpa Vishnu Thakur v. State of Maharashtra, 2009 SCC OnLine Bom 705 : (2009) 3 Mah LJ 995]), the Full Bench of the Bombay High Court has noted that people having the surname “Thakur” belong to both forward castes and various backward castes. Therefore, the Full Bench may be right in saying that in every case, only on the basis of the surname Thakur, it cannot be concluded by the Scrutiny Committee that the applicant belongs to Scheduled Tribe Thakur notified in Entry 44 of the Maharashtra List. However, we must note that in the case of a person having the surname Thakur, there may be evidence in the form of entry of the name of the caste as a Tribe or Scheduled Tribe in the land records, school or college records or any official records concerning the applicant or his ancestors. Only on the ground that the persons having the surname Thakur may belong to a forward caste as well, it is not necessary that in every case, the Scrutiny Committee should send the case to vigilance cell. It all depends on the nature of the documents produced before the Caste Scrutiny Committee and the probative value of the documents. Therefore, whenever a caste claim regarding Thakur Scheduled Tribe is considered, the Caste Scrutiny Committee in every case

should not mechanically refer the case to the vigilance cell for conducting an enquiry including affinity test. The reference to the vigilance cell can be made only if the Scrutiny Committee is not satisfied with the material produced by the applicant.

28. the affinity test cannot be applied as a litmus test. We may again note here that question of conduct of the affinity test arises only in those cases where the Scrutiny Committee is not satisfied with the material produced by the applicant.”

8. On perusal of the said judgment of the Hon’ble Supreme Court, it is clear that the documents which are of paramount importance for the purpose of deciding the caste claim of the Petitioner are totally ignored by the by the Caste Scrutiny Committee. We have perused the said documents. Those documents are not discarded by the Caste Scrutiny Committee on the ground that they were not genuine or on the ground that those do not belong to the father or grandfather of the Petitioner, these documents are admittedly belonging to the Petitioner and that there is no dispute about the genuineness of the said document.

9. The Division Bench of this Court, Bench at Aurangabad in the judgment passed in the matter of ***Abasaheb s/o Gulabrao Thakur Vs. The State of Maharashtra & Ors.***⁴, has after relying upon the

⁴ Writ Petition No.7472 of 2021 dt. 25th February, 2026

judgment of *Lahu Dashrath Thakur Vs. Scheduled Tribe Certificate Scrutiny Committee, Nandurbar Region Nandurbar and Ors. decided on 11th March, 2025 in Writ Petition No.9283 of 2012* and also relying on the judgment of the Division Bench of this Court in the matter of *Ravindra Pralhadrao Khare vs. State of Maharashtra and Ors. in Writ Petition No.11241 of 2012* has taken a view that there can be no such entries made in the year 1947-1948 indicating the word 'Thakur Scheduled Tribe'.

10. The Constitution (Scheduled Tribes) Order, 1950 which was issued by a notification dated 6th September 1950, for the first time included the caste 'Thakur' in Entry 21 of the Tribal Community. There was, therefore, no occasion that the word 'Thakur' in 'Thakur Schedule Tribe' could be mentioned in the pre-constitutional document. In this premise, it is highly impossible that there would be mention of the word 'Thakur Scheduled Tribe' in any pre-constitutional documents. The Court has also taken a view that unless until there is some document to show that the petitioner belongs to the upper caste, it would not be proper to reject the case of the petitioner because the word 'Thakur Scheduled Tribe' is not mentioned in the entry of caste. In absence of any material to show

that the petitioner belongs to the upper caste 'Thakur', it would not be proper to reject the caste claim of the petitioner.

11. We are of the confirmed opinion that the Petition deserves to be allowed. Hence, the following Order:

ORDER

- (i) Writ Petition No.11346 of 2011 is allowed.
- (ii) The impugned Order dated 7th June, 2011 passed by the Respondent No.2-Scheduled Tribe Certificate Scrutiny Committee, Nandurbar Region is quashed and set aside.
- (iii) The Respondent No.2 is directed to issue Certificate of Validity to Petitioner-Vina Eknath Saindane @ Vijaya Pramod Thakur as belonging to Thakur Scheduled Tribe within a period of eight weeks from today.

12. Rule is made absolute in the aforesaid terms.

13. There shall be no order as to costs.

14. In view of above, Writ Petition No.11346 of 2011 stands disposed of.

(SANDESH D. PATIL, J.)

(M. S. KARNIK, J.)