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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1058 OF 2021**

Kaviraj S. Gathe ... Petitioner.
V/s.
State of Maharashtra and ors. ... Respondents

Mr. R.K. Mendadkar and Mr. C.K. Bhangoji for the Petitioner.
Ms M.S. Bane, AGP for the Respondent – State.
Mr. Ashwin Thool i/b Mr. Ayush Singh for Respondent No.3.

**CORAM : PRASANNA B. VARALE &
N.R. BORKAR, JJ.
DATE : 07.10.2021.**

P.C.

1] Heard the learned counsel for the petitioner and the learned AGP appearing for respondent Nos.1 and 2- State and the learned counsel for respondent No.3.

2] By this petition, the petitioner takes an exception to the order passed by respondent No.2 – Scheduled Tribe Certificate Scrutiny Committee, Amravati (Scrutiny Committee) dated 4.11.2020. By the impugned order, the respondent No.2 invalidated the caste claim of the petitioner as belonging to Thakur, Scheduled Tribe.

3] The learned counsel for the petitioner invited our attention to the list of documents submitted before the Scrutiny Committee. It is submitted that all these documents which are public documents, clearly supports the claim of the

petitioner. It is submitted that out of nine documents, as many as four documents are pre-constitution documents and as such they are having more probative value. It is submitted that the claim of the petitioner, therefore, ought to have accepted that he belongs to Thakur, Scheduled Tribe.

4] At this juncture, we may refer to the documents mentioned in paragraph 6 of Committee's Decision dated 4.11.2020, which is annexed at Exhibit- A to the petition. The same read as under:

Sr. No	Type of document	Name	Relationship with applicant	Caste Recorded	Occupation mentioned	Date of evidence
1	School extract, Dahigaon, Tq.Nandura Dist. Buldana	Gulchand Govind s/o., Govinda @ Laxman Narayan (surname not mentioned)	Gulchand is not in genealogy	Thakur	—	12.3.1942
2	Birth extract Dahigaon, Tq.Nandura Dist. Buldana	A female child (Tulsi) born to Laxman Narayan Thakur	Applicant stated that Bhiki is Tulsi	Thakur	—	22.10.1944
3	School extract, Dahigaon, Tq.Nandura Dist. Buldana	Madhukar Govinda s/o. Govinda @ Laxman Narayan (surname not mentioned)	Uncle	Thakur	—	14.2.1946
4	Birth extract Dahigaon, Tq.Nandura Dist. Buldana	A male child (Mahadeo) born to Govinda Narayan Thakur	Cousin uncle	Thakur	—	17.10.1947
5	Birth extract	A male child	No relation	—	—	17.7.1952

	Dahigaon, Tq.Nandura Dist. Buldana	(Shrikrushna) born to Govinda Narayan Thakur	because date of birth of applicant's father Shrikrushna is 6.7.1953 on school record			
6	School record, Dahigaon, Tq.Nandura Dist. Buldana	Shrikrushna Govinda admitted by Ramkrushna Govinda Thakur	Father	Thakur	Agri- culture	Birth date 6.7.1953 & date of admission 8.7.1959
7	School extract, Dahigaon, Tq.Nandura Dist. Buldana	Mahadeo Govind (surname not mentioned)	Uncle	Thakur	Agricul- ture	Date of birth 17.11.1947 & date of admission 9.4.1954
8	School extract, Dahigaon, Tq.Nandura Dist. Buldana	Ramesh Ramkrushna s/o. Govinda Gathe	Cousin brother	Thakur	—	7.7.1972
9	Land record village, 7/12- (Class-I land) form, Dahigaon, Tq.Nandura Dist. Buldana	Balkrushna, Mahadeo, Shrikrushna Govinda Gathe	Father/ uncle	There are no remarks as a tribal land.		

5] The first document is of the year 1942. Apart from these documents, it seems that a document of the year 1926 was also placed on record and same was in relation to Lakshman @ Govinda.

6] A document of the year 1926 issued by the School Authority of Village Dahigaon, Dist. Buddhan was submitted before the Scrutiny Committee. It is very interesting to note that in the process of verification of the documents through

Vigilance Cell, a statement of Headmaster of Dahigaon, Zilla Parishad Primary School, Tal. Nandura, Dist. Buldana is recorded. It is stated by the Headmaster that referred document is in a very bad condition, as such he is unable to provide any information about the said document. This statement only shows inability of the Headmaster to make any statement about the said document. However, the Scrutiny Committee looked into that statement as if the document is not genuine. The Scrutiny Committee could not have jumped to the conclusion only on the ground that the document was in bad condition and the Headmaster was unable to provide any information about it. In our opinion, the approach of the Scrutiny Committee is not justifiable.

7] The other documents such as :

- (i) Certificate in relation to one Govinda Gathe showing his caste as Thakur dated 4.2.1943;
- (ii) Certificate in relation to Madhukar Govind showing his caste as Thakur dated 23.8.1952; and
- (iii) Certificate in relation to Mahadeo Govind showing his caste as Thakur dated 11.8.1964.

Though the aforesaid documents were submitted before the Scrutiny Committee, the Scrutiny Committee flatly denied to look into these documents or to consider the value of these documents and recorded the finding that these document are not verified by the Vigilance Cell. The Vigilance Cell is constituted and the main object and purpose of the Vigilance Cell is to verify the documents and submit a report to that

effect to the Scrutiny Committee so that the Scrutiny Committee can take appropriate decision on the claim submitted before it.

8] In the present case, undisputedly, the Vigilance Cell failed in it's duty to verify the documents and submit a report to the Scrutiny Committee. Certainly, this cannot be a reason to discard the documents. Thus, again the approach of the Scrutiny Committee for non consideration of these documents, in our opinion, is clearly, unjustified and unsustainable.

9] Though the learned counsel for the petitioner submitted that the Scrutiny Committee was not justified in rejecting the claim of the petitioner on the ground of area restriction, we are not inclined to consider that aspect, at this stage, as we are of the opinion that the Scrutiny Committee utterly failed to consider the documents and evidentiary value of those documents in it's proper perspective. We are therefore, constrained to remit the matter back to the Scrutiny Committee for fresh decision. In the result, the following order is passed.

A] The impugned order dated 4.11.2020 passed by respondent No.2 - Scheduled Tribe Certificate Scrutiny Committee, Amravati is quashed and set aside. The matter is remitted back to respondent No.2 Scrutiny Committee for fresh decision. Respondent No.2 - Scrutiny

Committee shall decide the claim of the petitioner afresh, as expeditiously as possible and preferably within a period of 6 months from the date of receipt of copy of this order;

B] Needless to mention that all the contentions of the parties are kept open;

C] The services of the petitioner shall not be terminated till the decision of Scrutiny Committee;

D] With these directions, Writ Petition is disposed of.

(N.R. BORKAR, J.) (PRASANNA B. VARALE, J.)