

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.5388 OF 2021

Aditya S/o Mohan Gathe
Age : 21 Yrs., Occ : Student
R/o Fattepurwadi, Mothi Umri,
Akola, Tq. & Dist. Akola 444005

... Petitioner

-vs-

Schedule Tribe Caste Certificate
Scrutiny Committee, Old By Pass,
Chaprasipura, Amravati, Through
its Vice Chairman/Jt. Commissioner

... Respondent

Shri Ankush P. Kalmegh, Advocate for petitioner.
Ms H. N. Jaipurkar, Assistant Government Pleader for respondent.

CORAM : A. S. CHANDURKAR AND M. W. CHANDWANI, JJ.

DATE : October 12, 2022

Oral Judgment : (Per : A. S. Chandurkar, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

The challenge raised in this writ petition is to the order passed by the Scrutiny Committee on 02/11/2020 invalidating the tribe-claim of the petitioner of belonging to “Thakur” (Schedule Tribe). In support of such claim the petitioner relied upon various pre-constitutional documents as well as validity certificate granted to his sister Vaishnavi in the light of such adjudication in Writ Petition No.5194/2019 (*Vaishnavi d/o Mohan Gathe vs. Schedule Tribe Caste Certificate*

Scrutiny Committee) dated 26/07/2019. By relying upon the decision in *Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and ors. 2010(6) Mh.L.J. 401*, it is submitted on behalf of the petitioner that since this Court has considered the very same documents on which the petitioner's sister had relied upon, it was not permissible for the Scrutiny Committee to have arrived at a different conclusion.

2. The claim is opposed by the learned Assistant Government Pleader for the respondent on the ground that the Scrutiny Committee has considered the old documents before concluding that the petitioner and his forefathers did not belong to "Thakur" (Schedule Tribe).

3. It is not in dispute that the claim of the petitioner's sister was adjudicated by this Court in Writ Petition No.5194/2019. It was concluded that the claim of belonging to "Thakur" Schedule Tribe was liable to be upheld. This adjudication has attained finality and said petitioner has been issued a validity certificate. While considering this aspect, the Scrutiny Committee in paragraph 31 has sought to discard that validity certificate on the ground that an entry of 1952 showing the caste "Maratha" was not disclosed by the petitioner and his sister. In this regard if the reply of the petitioner dated 15/10/2020 to the

vigilance report is perused, it is seen that in paragraph 3 thereof the relationship of the petitioner with Dagdu Tukaram has been disputed. This aspect has not been considered by the Scrutiny Committee.

4. Be that as it may, we find that the petitioner is entitled to the benefit of adjudication of his sister's claim in the light of the law as laid down in *Apoorva V. Nichale* (supra). The sister of the petitioner having been found to be belonging to "Thakur" Schedule Tribe and in absence of any aspect of fraud being alleged, there is no reason to deprive the petitioner of benefit of such adjudication.

5. Hence for reasons contained in the judgment in Writ Petition No.5194/2019 dated 26/07/2019 in case of the petitioner's sister, the order dated 02/11/2020 passed by the Scrutiny Committee is set aside. It is declared that the petitioner belongs to "Thakur" Schedule Tribe. The Scrutiny Committee shall within a period of four weeks from today issue validity certificate to the petitioner.

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

(M. W. Chandwani, J.)

(A. S. Chandurkar, J.)