

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

WRIT PETITION NO.4367 OF 2022

1. Yashpal s/o Avinash Suryawanshi
Aged about 21 years,
Occupation – Education,
2. Yashwant s/o Naresh Suryawanshi
Aged about 22 years,
Occupation – Education,
Both R/o. Near Datta Mandir,
Chinchbhuvan, Wardha Road,
Nagpur

...PETITIONERS

VERSUS

Scheduled Tribe Caste Certificate
Scrutiny Committee,
Yavatmal,
District – Yavatmal
through it's Assistant Commissioner/
Vice Chairman.

...RESPONDENT

Shri R.D. Karode, Advocate with Ms. P. Pisole, Advocate for the
petitioners.
Mrs. K.R. Deshpande, A.G.P for the respondent/State.

**CORAM : A.S. CHANDURKAR AND
URMILA JOSHI-PHALKE, JJ.**

DATED : AUGUST 26, 2022.

JUDGMENT (Per Urmila Joshi-Phalke, J.)

Heard learned counsel for the parties.

2. **RULE.** Rule made returnable forthwith.

3. The petitioners are the students pursuing their higher studies belongs to “Thakur” tribe. Petitioner No.2-Yashwant s/o Naresh Suryawanshi has appeared for MHT-CET 2022. Their caste claim was forwarded for verification through Shrikrushnadas Jaju, Gramin Seva Mahavidhyalaya, Pipri District Wardha. The Committee has referred the claim of the petitioners for Vigilance Enquiry. Accordingly, Vigilance Enquiry was conducted. As per the contention of the petitioners, the Caste Validity Certificate was issued to his cousin grandfather Vijay on the basis of similar documents of pre-independence era. But the Committee while considering their caste validity ignored the same document and invalidated the claim by passing order on 04/04/2022.

4. It is the contention of the petitioners that after Vigilance Report the Scrutiny Committee had issued show cause notice and petitioners have explained the entire documents in their reply which were also not considered by the Committee. In support of the contention they relied on sale-deed of 1936 to show that they are

permanent residents of State of Maharashtra and belongs to “Thakur” community. The petitioners have also relied upon the family tree which was submitted by them before the Vigilance Committee. It is the contention of the petitioners that the invalidation order passed by the Committee is arbitrary, illegal and liable to be set aside.

5. On the other hand, Mrs. K.R. Deshpande, learned Assistant Government Pleader submitted that the Scrutiny Committee was justified in refusing to grant any Validity Certificate and, therefore, the order passed by respondent No.1-Caste Scrutiny Committee is correct and no interference is called for.

6. Heard Shri Ram Karode, learned Counsel with Ms. P. Pisole, learned Counsel for the petitioners. He submitted that earlier validity is already granted to the cousin grandfather Vijay of the petitioners on the basis of similar documents. Said documents are ignored by the Caste Scrutiny Committee. The petitioner had not only submitted the said documents but the petitioners had explained the entire documents in their reply to the notice but respondent No.1-Committee had not considered the same. He further submitted that as per the family tree, Tukaram had one son namely Suryabhan. Said Suryabhan had two sons and one daughter namely Vitthal, Baliram and Janabai. Vitthal had two sons namely Gajanan and Vijay. Baliram had three sons and three

daughters namely Suresh, Naresh, Avinash, Chitra, Sunanda and Ratna. Suresh had one daughter and two sons namely Harsha, Dhananjay and Rohit. Naresh had three daughters and one son namely Leena, Swati, Pallavi and Yashwant (petitioner No.2). Avinash had two sons namely Yashpal (petitioner No.1) and Sandesh. Thus, Vitthal is the real grandfather of Yashwant (petitioner No.2) and Baliram is the real grandfather of Yashpal (petitioner No.1). Vitthal and Baliram are real brothers. He also invited our attention towards Gram Panchayat's tax assessment which is in the name of Suryabhan Tukaram Thakur i.e. the great grandfather of petitioner No.1, which is for the year of 1936. The School Leaving Certificate which is relied on shows that Vitthal Suryabhan was admitted in primary school at Yavatmal from 06/07/1932 to 20/08/1934. The birth date of Vitthal was recorded in the said School Leaving Certificate as 29/09/1924 and caste was recorded as "Thakur". Said Vitthal was recorded as "Thakur". Dakhal Kharij Register extract of the same is filed on record showing birth date as 29/09/1924. Even the Vigilance Committee Report showing the documents collected during the vigilance that the great-grandfather of the petitioners namely Suryabhan was recorded as "Thakur". As per the birth entry recorded on 29/09/1924 by which Vitthal was also recorded as "Thakur". Baliram who is the cousin grandfather was also recorded as "Thakur". Maternal aunt (father's sister) by name Shanta was also

recorded as “Thakur”. Thus, there are consistent entries showing that forefathers of the petitioners were recorded as “Thakur”. However, Caste Scrutiny Committee had invalidated the claim only on the ground of affinity with the “Thakur” tribe not proved. Even Caste Scrutiny Committee ignored that the cousin grandfather of the petitioner namely Vijay was granted the Validity Certificate on the basis of the same documents. He submitted that the order passed by the Caste Scrutiny Committee is illegal, arbitrary and liable to be set aside.

7. As against this, the learned Assistant Government Pleader submitted that the Scrutiny Committee was justified in refusing to grant any Validity Certificate. She submitted that the Scrutiny Committee has observed that the petitioners had not proved the affinity test by proving the customs and traditions of “Thakur” community and rightly rejected the claim. She further submitted that the Committee has observed that though there are entries against the names of forefathers of the petitioners as “Thakur”, revenue record also shows the entries as “Thakur”. But “Thakur” tribe was residing in a hilly area and petitioners failed to prove any connection with the traditions and the customs of the said “Thakur” tribe. In the above circumstances, the claim of the petitioners is rightly rejected and no interference is called for.

8. After hearing both the parties at length and after perusing the record it is apparent that both the petitioners are pursuing their higher studies. Petitioner No.2 has also appeared for the CET examination. Both the petitioners claimed that they belong to “Thakur” tribe. In support of their contentions they placed their reliance on the revenue entries. They filed on record the sale-deed executed on 23/07/1936 which was executed by Suryabhan Tukaram Thakur and Baliram Suryabhan Thakur etc. Said sale-deed executed by them shows that the forefathers of the petitioners belong to “Thakur” community. As per the family tree Tukaram is the great great-grandfather had one son namely Suryabhan. Said Suryabhan had two sons and one daughter by name Vitthal, Baliram and Janabai. Said Vitthal is the great-grandfather of the petitioners. The birth certificate issued by Municipal Council, Pulgaon shows that great-grandfather of the petitioners namely Vitthal was born on 29/09/1924. The school leaving certificate issued shows that said Vitthal was recorded as “Thakur”. The aunt of the petitioner’s father namely Shanti Baliram born on 01/07/1929 was also recorded as “Thakur”. Vigilance Committee has conducted the inquiry and also collected the relevant documents. Said documents also referred that great great-grandfather Suryabhan was recorded as “Thakur” at the time of recording the birth entry of Vitthal. Vitthal Suryabhan was also recorded as “Thakur” while recording the birth entry of his son,

Baliram Thakur was also recorded as “Thakur” at the time of executing the sale-deed. Thus, there are consistent entries showing that forefathers of the petitioners belong to “Thakur” community.

9. The claim of the petitioners cousin grandfather Vijay Vitthalrao Suryawanshi was earlier rejected by the Scrutiny Committee at Nagpur. He challenged that order in Writ Petition No.5549/2011. On 16/09/2016, the order passed by the Scrutiny Committee was set aside and the proceedings were remanded for fresh consideration. Thereafter on 01/03/2021, the Scrutiny Committee itself issued validity certificate to him. The Scrutiny Committee at Yavatmal did not give due weightage to that validity certificate on the ground that the tribe certificate had not been obtained from the Competent Authority. This reason cannot be accepted. The cousin grandfather of the petitioners namely Vijay Vitthalrao Suryawanshi was granted validity certificate on the basis of similar documents. Though these documents are filed on record and explained by the petitioners by filing say and reply to the notice, the Caste Scrutiny Committee ignored the same documents and rejected by assigning the reason that “Thakur” tribe was residing in hilly area and residents of talukas with whom petitioners failed to prove the connection and rejected the claim. It is well settled that where the caste claim of the applicants has been scrutinized and accepted and one committee has

given a finding about the validity of the caste another committee ought not to refuse the same status to his/her blood relative who applies in view of decision of Apoorva Nichale (supra). It is further held that 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 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 blood.

10. In the present case, admittedly, family tree is not denied by the Scrutiny Committee. There is no dispute about the family tree which is produced on record. The entries consistently shows that forefathers of the petitioners belong to the tribe "Thakur". The documents which pertain to the forefathers of the petitioners prior to 1950 having probative value were discarded by the Scrutiny Committee by assigning the reason that tribe "Thakur" is residents of hilly area and the petitioners failed to prove the connection with the said tribe. When there are consistent entries of pre-independence era, they cannot be ignored by assigning the above reason. Therefore, the order passed by the Scrutiny Committee dated 04/04/2022 is liable to be quashed and set aside.

11. In the result, we proceed to pass the following order :

(i) The writ petition is allowed.

(ii) The order dated 04/04/2022 passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Yavatmal is quashed and set aside.

(iii) It is declared that the petitioners i.e. 1) Yashpal s/o Avinash Suryawanshi and 2) Yashwant s/o Naresh Suryawanshi have proved their claim of belonging to “Thakur” (Scheduled Tribe).

(iv) The Scrutiny Committee shall issue the Validity Certificates to the petitioners within a period of four weeks from the date of receipt of copy of this judgment.

12. Rule is made absolute in the aforesaid terms. There will be no order as to costs.

(URMILA JOSHI-PHALKE, J.)

(A.S. CHANDURKAR, J.)

**Divya*