

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.12676 OF 2022

Pawan Vitthal Jagtap,  
Age-19 years, Occu-Education,  
R/o Dhamori (Bk.), Tq. Gangapur,  
Dist.Aurangabad

-- PETITIONER

VERSUS

1. The State of Maharashtra,  
Through it's Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai,

2. Scheduled Tribe Certificate  
Scrutiny Committee, Aurangabad  
Division, Aurangabad,  
Through it's Member Secretary

3. The Commissioner and Competent Authority  
Commissionerate of Common Entrance Test Cell,  
Government of Maharashtra,  
8th Floor, New Excelsior building,  
A.K.Nayak Marg, Fort, Mumbai.

--RESPONDENTS

Mr.PB.Salunke, Advocate for the petitioner.

Mr.PS.Patil, AGP for respondent Nos.1 and 2.

Mr.S.B.Kuptekar h/f Mr.M.D.Narwadkar, Advocate for respondent No.3.

( CORAM : RAVINDRA V. GHUGE AND  
SANJAY A. DESHMUKH, JJ.)

DATE : JANUARY 5, 2023

ORAL JUDGMENT : (Per Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the

consent of the parties.

2. The petitioner is a 19 years old student namely Pawan Vitthal Jagtap. He is aggrieved by the impugned order dated 31.10.2022 passed by the competent Committee invaliding his claim of belonging to the Thakur ST category.

3. Having considered the strenuous submissions of the learned Advocates for the respective sides, we have gone through the petition paper book and the additional affidavit filed by the petitioner accompanied by the affidavit filed by a validity holder namely Ravindra Vishwanath Jagtap. The family tree tendered alongwith the additional affidavit of the petitioner dated 03.01.2022, is said to be the corrected family tree.

4. On 12.12.2022, we had passed the following order :-

"1. The petitioner has put forth prayer clauses – [A], [B], [C], [D] & [E] as under :

“ [A] This Writ Petition may kindly be allowed and petitioner may kindly be held and declare as belonging to “Thakur” Scheduled Tribe.

*[B] The impugned judgment and order dated 31.10.2022 passed by the respondent No.2 committee, invalidating the tribe claim of the petitioner of Thakur Scheduled Tribe may kindly be quashed and set aside and respondent No.2 committee may kindly be directed to issue Tribe Validity Certificate of Thakur Tribe to the petitioner.*

*[C] Pending hearing and final disposal of this petitioner, the impugned judgment and order dated 31.10.2022 passed by the respondent No.2 Committee invalidating the tribe claim of the petitioner of Thakur Scheduled Tribe may kindly be stayed.*

*[D] The Respondent No.3 may kindly be directed to consider the petitioner from scheduled tribe category in the entire admission process of MHT-CET-2022 without insisting for the Tribe Validity Certificate of the petitioner, subject to the adjudication of the tribe claim of the petitioner by this Hon'ble Court in this petition.*

*[E] Pending hearing and final disposal of this petition, respondent No.3 may kindly be directed to consider the petitioner from Scheduled Tribe Category in the entire admission process of MHT-CET-2022 without insisting for the tribe validity certificate of the petitioner, subject to adjudication of tribe claim of the petitioner by this Hon'ble Court in this petition."*

2. We have considered the submission of the learned Advocate for the petitioner. He claims that 4 validity holders, namely, Amol Subhashrao, Vijaya Subhashrao, Ravindra Vishwanath and Rajendra

*Vishwanath are blood relatives. The learned AGP has produced before us the original files of Amol and Vijaya pertaining to their claims for validity as belonging to 'Thakur' Scheduled Tribe. From their affidavits and their family trees set out in their affidavits, we do not see the name of the present petitioner. However, in the family tree of the present petitioner, he has shown these four validity holders as his blood relatives. There is also a discrepancy in name of an ancestor.*

*3. We, therefore, called upon the learned Advocate for the petitioner to state, as to whether he can produce the affidavits of Amol Subhashrao, Vijaya Subhashrao, Ravindra Vishwanath and Rajendra Vishwanath, stating that the present petitioner is their blood relative and explaining the relation. The learned Advocate for the petitioner submits that if he is granted some time, he would be able to produce the said affidavits.*

*4. Issue notice to the respondents, returnable on 09.01.2023. The learned AGP waives service of notice on behalf of respondent nos.1 & 2.*

*5. The learned Advocate for the petitioner submits that he may be granted provisional admission to the pharmacy course. We are unable to accede to the said request keeping in view that the claim of the petitioner has been invalidated and the relation with the validity holders was not established before the Competent Committee."*

5. The petitioner has placed before us one family tree which is on the reverse page of his affidavit dated 21.09.2021. In his additional affidavit, he has produced another family tree dated 03.01.2022

wherein there is an alteration amongst the members of the family. The learned AGP points out from the original file that the petitioner's father Vitthal has placed one family tree on record at page No.80 in the original file of the Committee, wherein 2 validity holders namely, Amol Subhash and Vijaya Subhash, are not reflected at all. We are, therefore, faced with 3 family trees with discrepancies. Nevertheless, 2 validity holders namely Ravindra Vishwanath and Rajendra Vishwanath are properly shown as the sons of Vishwanath Jagannath. Jagannath traces his roots to his grandfather Deoman Jagtap and his father Eknath Deoman. However, in view of 3 family trees placed before us with certain discrepancies and in the light of the statement of the petitioner that the family tree tendered by him dated 03.01.2023 is the correct reflection, runs counter to the family tree produced by his father before the Committee. The same petitioner has tendered a different family tree alongwith his affidavit dated 21.09.2021.

6. In the above backdrop, the petitioner prays for remand so that he can lead evidence through himself and his father by way of an affidavit, to indicate the correct family tree. Once, this is done, the Committee can proceed to verify the relation of the petitioner with the validity

holders shown in such family tree.

7. The learned AGP submits that if the petitioner seeks a remand so as to settle the issue of establishing his relationship with the validity holders, the Committee would initiate further investigation and verify the claim of the petitioner.

8. In view of the above, in these peculiar facts, this petition is partly allowed. The impugned order dated 31.10.2022 passed by the Committee is quashed and set aside. The proceedings initiated by the petitioner Pawan Jagtap alongwith his brother Ganesh Jagtap bearing No.ABD/APPL/64/2019 and ABD/APPL/65/2019 stand remitted to the Competent Authority at Aurangabad. Liberty is granted to the petitioner to lead evidence through affidavits. Since Ganesh is a minor, evidence lead by Pawan and the father Vitthal would cover the case of Ganesh as well.

9. Rule is made partly absolute in the above terms.

(SANJAY A. DESHMUKH, J.)

( RAVINDRA V. GHUGE, J.)