



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.929/2018

Atul Panjabrao Bhuyar,
aged 52 Yrs., Occ. Assistant Teacher,
Gawlipura, (Karanja Lad),
Dist. Washim.

... Petitioner

- Versus -

1. The Scheduled Tribes Certificate
Scrutiny Committee, through its
Principal Secretary, Chaprashipura,
Amravati.

2. The Zilla Parishad,
Washim, through its Chief Executive
Officer.

... Respondents

Mr. R.S. Parsodkar, Counsel for the Petitioner.
Mrs. R.V. Sharma, A.G.P. for respondent No.1.

CORAM :- SMT. ANUJA PRABHUDESAI &
MRS. VRUSHALI V. JOSHI, JJ.

DATED :- 18.12.2023

JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith. Heard
finally by consent of the learned counsel for the parties.

2. The petitioner has challenged the order dated
6.1.2018 passed by the respondent No.1 invalidating the caste
claim of the petitioner as belonging to “Thakur” (Scheduled

Tribe). The Scrutiny Committee has not considered the validity certificates issued to the blood relatives of the petitioner while invalidating his caste claim.

3. The petitioner belongs to “Thakur” (Scheduled Tribe) which is enlisted at serial No.18 of the The Constitution (Scheduled Tribes) Order, 1950. The petitioner was appointed in Zilla Parishad, Washim as an Assistant Teacher on 11.10.1993. His caste claim was referred to respondent No.1 Scrutiny Committee by Zilla Parishad on 5.5.2015.

4. The petitioner has submitted the documents of his father Panjabrao Bhuyar dated 10.7.1947 in support of his caste claim of “Thakur”, the school leaving certificate of Panjabrao dated 18.6.1942, dakhil kharij register of father of petitioner dated 18.6.1942, the entry of grand-father of the petitioner in death certificate of his son dated 27.9.1929, the birth entry of the daughter born to Narayan dated 21.10.1929, document showing son born to Narayan dated 9.11.1933, the caste of great grand-father Ambadas is also recorded as “Thakur” in the entry dated

1.3.1915 showing son born to him. All these documents produced by the petitioner are of Thakur entry.

5. The Vigilance Cell obtained birth extract of one Ambadas, who is stated to be the great grandfather of the petitioner. The caste of Ambadas is recorded as Bhat and birth date is recorded as 24.3.1924. The petitioner had relied upon the birth extracts to show that a son was born to Ambadas on 01.03.2015 and that his great grandchildren i.e. daughter and son of Narayan were born in the year 1929 and 1933. These documents reveals that the extract referred to in the vigilance report is not that of the great grandfather of the petitioner. Without considering his explanation and only relying on the document of Ambadas where the entry is shown as Bhat the Scrutiny Committee has invalidated the caste claim. Another ground raised is of not matching affinity.

6. During the pendency of this petition the blood relatives of the petitioner received the validity certificates and by filing additional affidavit, the petitioner has brought on record that his five relatives have received the validity certificates. It is

prayed that considering the ratio laid down in the case of Apoorva Vinay Nichale V/s. Divisional Caste Certificate Scrutiny Committee No.1 and others reported in **2010(6) Mh.L.J. 401** the petitioner be issued the validity certificate.

7. The respondent No.1, has filed reply, stating that the oldest entry shows the caste of great grandfather of the petitioner as Bhat. The validity certificate of relatives relied on are issued after filing of this petition hence cannot be considered. Hence, respondent No.1 has prayed for dismissal of the petition.

8. In view of the additional affidavit filed by the petitioner stating that five blood relatives have received the validity certificates of “Thakur” and as per the ratio laid down in Apoorva Vinay Nichale (supra) the petitioner is entitled for issuance of validity certificate of “Thakur” (Scheduled Tribe). The persons whose validity certificates are produced before us by the petitioner are mentioned in the family tree, therefore, it is proved that the petitioner belongs to “Thakur” (Scheduled Tribe). The documents which are filed on record also prove that the petitioner belongs to “Thakur” (Scheduled Tribe).

9. Insofar as the aspect of affinity is concerned, this issue has now been decided by the Hon'ble Supreme Court in its decision in Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti V/s. State of Maharashtra and others reported in **2023(2) Mh.L.J. 785**. It has been held therein that report of the Vigilance Cell cannot be treated as a litmus test. The entire material on record has to be considered while verifying the tribe claim of a candidate.

10. For the aforesaid reasons, the impugned order passed by the Scrutiny Committee is set aside. The Scrutiny Committee shall issue validity certificate of "Thakur" (Scheduled Tribe) to the petitioner within a period of six weeks from the date of this judgment.

Rule is made absolute in the above terms. There shall be no orders as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(SMT. ANUJA PRABHUDESAI, J.)