

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

WRIT PETITION NO. 2411 OF 2023

Suyash Sunil Gathe,
Aged about 19 years, Occupation-Student
R/o at Post Asalgaon, Tq. Jalgaon Jamod,
District – Buldhana.

..... **PETITIONER**

..V E R S U S..

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee,
Chaprasipura, Amravati,
through its Member Secretary.

..... **RESPONDENT**

Shri R.S.Parsodkar, Advocate for petitioner.
Ms S.S.Jachak, Assistant Government Pleader for respondent.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.
DATE :- 4th AUGUST, 2023

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

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

The learned Assistant Government Pleader has also produced the record maintained by the Scrutiny Committee for perusal.

2. The petitioner claims to belong to ‘Thakur’ Scheduled Tribe. In support of petitioner’s claim, he has relied upon various pre-Constitution documents of his forefathers. The Vigilance Cell examined various documents relied upon by the petitioner in support of such claim and in its

report dated 08.07.2022 observed that all the documents from 1912 to 1946 had the entry 'Thakur'. Similarly, the documents from 1946 to 1988 also had the entry 'Thakur'. The Scrutiny Committee considered the said report of the Vigilance Cell but proceeded to invalidate the petitioner's claim principally on the ground that the forefathers of the petitioner were not residing in the scheduled area and that there was lack of affinity with the members belonging to Scheduled Tribe.

3. It has been pointed out on behalf of the petitioner by referring to the family tree dated 19.05.2022 that various blood relatives being the son and daughter of Sudhakar Mahadeo Gathe and the sons of Subhash Pralhad Gathe being parental cousins of the petitioner have been issued validity certificates pursuant to the decisions of this Court in Writ Petition No. 5110 of 2019 (*Bhushan s/o Subhash Gathe vs. The Vice-Chairman/Member Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati*) and Writ Petition No.5111 of 2019 (*Krushna s/o Sudhakar Gathe vs. The Vice-Chairman/Member Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati*) decided on 25.07.2019. By virtue of the judgment dated 30.08.2022 in Writ Petition No.4140 of 2022 (*Alok s/o Subhash Gathe vs. The Vice-Chairman/Member Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati*) and Writ Petition No.1781 of 2022 (*Subhash s/o Pralhad Gathe vs. The Vice-Chairman/Member Secretary, Scheduled Tribe*

Caste Certificate Scrutiny Committee, Amravati and ors.) similar such validity certificate has been granted to the son of Madhukar Mahadeo Gathe in Writ Petition No. 803 of 2002 (*Rajendra Madhukar Gathe vs. State of Maharashtra and others*) decided on 12.01.2016. These validity certificates have also been not given due weightage by the Scrutiny Committee.

4. After hearing the learned counsel for the parties and after perusing the records, it is clear that various blood relatives of the petitioner have been issued validity certificates as referred to hereinabove. In view of the decision in *Apoorva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others* [2010(6) *Mh.L.J.401*] the entitlement of the petitioner to similar recognition is made out.

5. Insofar as the aspects of area restrictions and requirement of affinity with the members of the Scheduled Tribe are concerned, the legal position in this regard is now settled. In a recent decision dated 11.07.2023 of the Honourable Supreme Court in *Priya Pramod Gajbe vs. The State of Maharashtra and others* (Civil Appeal No.7117 of 2019), the Honourable Supreme Court after considering the judgment of the Larger Bench in *Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra* [2023 (2) *Mh.L.J.785*] and other decisions has held that the documents of the pre - Constitution period indicating the caste of ancestors have got great probative

value and if an applicant is able to produce authentic and genuine documents of the pre-Constitution period then there is no reason to discard such claim since there were no reservations provided prior to 1950. It has been further observed that in view of migrations, modernization and contact with other communities new traits stand developed, it may not be essentially match with the traditional characteristics of the tribe.

With regard to area restrictions it has been clarified that if in the Presidential Order with regard to Scheduled Castes and Scheduled Tribes in the State of Maharashtra, there are no area restrictions prescribed, the Scrutiny Committee is not entitled to deprive an applicant of such benefit on that count. We find that the ratio of these decisions squarely applies to the case in hand.

6. Hence for aforesaid reasons and by adopting the reasons assigned by this Court in the earlier adjudications referred to in paragraph 3 above, the following order is passed :

(i) The order passed by the Scrutiny Committee on 28.11.2022 is set aside.

(ii) It is declared that the petitioner has proved that he belongs to 'Thakur' Scheduled Tribe. Within a period of three weeks of receiving the copy of this judgment, the Scrutiny Committee shall issue validity certificate to the petitioner. Till such validity certificate is issued, the petitioner can rely

upon the copy of this judgment to indicate that his claim of belonging to 'Thakur' Scheduled Tribe has been proved.

(iii) Rule is made absolute in aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..