



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

WRIT PETITION NO. 2725 OF 2022

Subhash Krushnarao Khartadkar
Aged about 60 years, Occ. Retired Teacher,
R/o. Sirso, Tq. Murtizapur,
Dist. Amravati. } ... Petitioner

Versus

1. The Scheduled Tribe Caste Scrutiny
Committee, Amravati Division, Amravati. }
2. The Tahsildar, Murtizapur,
Tq. Murtizapur, Dist. Akola }
3. The Collector, Akola
2. The Head Master, Swami Vivekanand
Vidyayala, Sirso, Tq. Murtizapur, Dist. Akola ... Respondents

Mr. Anup Gilda, Advocate for petitioner.

Ms. S.S. Jachak, Addl. GP for respondent Nos.1 to 3.

Ms. Himani Kavi, Advocate h/f Ms. P.D. Rane, Amicus Curiae.

**CORAM : SMT. ANUJA PRABHUDESSAI, AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATED : 21.12.2023.

JUDGMENT: (PER: Mrs. Vrushali V. Joshi, J)

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

(2) The petitioner has challenged the order passed by respondent No.1 – Scheduled Tribe Caste Scrutiny Committee, invalidating the caste claim of the petitioner. The petitioner belongs to ‘Thakur’ caste and the certificate was issued to the petitioner on 27.05.1985. The Police Vigilance Cell of respondent No.1 – Committee had conducted enquiry in relation to the caste claim of the petitioner and submitted the report on 23.03.2016. The petitioner has placed on record before the respondent No.1- Committee several documents in support to his caste claim. After considering the documents filed on record the Committee has invalidated the caste claim stating that all the documents are of ‘Thakur’ caste but it is not mentioned as ‘Thakur Scheduled Tribe’. The pre-constitutional documents filed by the petitioner reflects the caste of his blood relatives as ‘Thakur’. Only on the above said ground, documents are discarded. The another ground was for area restriction. The Committee has rejected the claim of the petitioner by observing that the petitioner had failed to prove that his ancestors had migrated from areas which were dwelling place/habitat area of Thakur Scheduled Tribe Community.

(3) Learned AGP opposed the petition stating that many

people took the advantage of the surname 'Thakur', though they are not belonging to 'Thakur Scheduled Tribe', therefore, the Scrutiny Committee has rightly observed that though the documents are of 'Thakur' community, none of the documents shows that it is of 'Thakur Scheduled Tribe' and area restriction is also there.

(4) Heard Mr. Gilda, learned counsel for petitioner and Ms. Jachak, learned AGP for respondent Nos.1 to 3.

(5) The rejection of the caste claim of the petitioner by respondent No.1 – Committee on the ground of area restriction is contrary to the principle law laid down by the Hon'ble Supreme Court and by this Court. The Committee has not denied about the documents of 'Thakur' caste only because the 'Scheduled Tribe' is not mentioned the caste claim is rejected. The claim is also rejected on the affinity test, the Hon'ble Apex Court has clearly stated about the affinity test is not a litmus test in case of ***Maharashtra Adivasi Thakur Jamat Seva Mandal and Ors. Vs. State of Maharashtra and Ors., 2006 (4) Mh.LJ 521.***

(6) In view of the above said reasons, the petitioner is

entitled for the validity certificate of 'Thakur' caste. The petition is allowed. The order passed by the Scrutiny Committee dated 10.05.2022 is set aside. Direction is given to the Scrutiny Committee to issue validity certificate of caste 'Thakur' to the petitioner within a period of six weeks.

(7) The petition is allowed in the above terms.

[MRS.VRUSHALI V. JOSHI, J.]

[SMT. ANUJA PRABHUDESSAI J.]

Prity