

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

WRIT PETITION NO. 6124 OF 2022

- | | | |
|----|---|--------------------|
| 1. | Lakhan Prakashrao Thakur, Age – 33 Years, Occ- Service, R/o. C/o. Prakash Thakur, Post. Asegaon Purna, Tq. Chandur Bazar, Dist. Amravati. | Petitioners |
| 2. | Sagar Ramesh Thakur, Age – 33 years, Occ- Service, R/o. Anjangaon Bari, Bhavanipura, Tq. & Dist. Amravati. | |

-Versus-

- | | | |
|----|--|--------------------|
| 1. | Scheduled Tribe Caste Scrutiny Committee, through its Chairman, Office at Chaprashipura, Camp, Amravati. Tq. & Dist. Amravati. | Respondents |
| 2. | Superintendent of Police, Buldhana, Chaitanyawadi, Buldhana, Tq. & Dist. Buldhana. | |
| 3. | Commandant, State Reserve Police Force, Group No.9, Amravati. Office at Wadi Naka, Amravati, Tq. & Dist. Amravati. | |

Mr. P. S. Patil, counsel for the petitioners.
Mrs. K. R. Deshpande, AGP for the respondents.

**CORAM : ROHIT B. DEO AND
M.W.CHANDWANI, JJ.**

DATE : 4TH JULY, 2023

JUDGMENT (Per : M. W. Chandwani, J.)

The petition challenges the order dated 28/07/2021 passed by the respondent-1-Scheduled Tribe Caste Scrutiny Committee, Amravati (hereinafter referred to as “Committee”), whereby the caste claim of the petitioners is invalidated.

2. The petitioners claim to be that they belong to Arakh caste, which is notified as Scheduled Tribe at Sr.No.18 of the Notification issued by the State Government. The petitioner No.1 was appointed as Police Shipai on reserved post for Scheduled Tribe category at the office of Superintendent of Police, Buldhana and the petitioner No.2 was appointed as Company Naik in State Reserve Police Force Group No.9 on reserved post for Scheduled Tribe category. The respondent Nos.2 and 3 forwarded the proposal of the petitioners for verification of caste claim of the petitioners to the Committee. The respondent No.1 by the impugned order invalidated the caste claims of the petitioners as Arakh Caste, which is under challenged in the present petition.

3. It is submitted on behalf of the learned counsel for the petitioners that they have filed the pre-constitutional documents of daughter of their grand father which showed the caste as Arakh Pardeshi. Instead of considering the same, the Committee recorded finding that there are contra entries against the caste claim of the petitioners. It is also contended that the Committee has solely relied on the affinity test, which should not have been done. It is contended on behalf of the petitioners that just because the petitioners are migrated from other State, therefore, "Pardeshi" word has been included in the documents. The Committee ought to have neglected the entry "Pardeshi" and granted validity of the caste certificate of the petitioners. Therefore, the impugned order needs to be set aside.

4. Learned Assistant Government Pleader for the respondents vehemently submits that there are various documents, which show the caste of the petitioners and their forefathers as "Pardeshi". According to her, 'Pardeshi' is a caste and not a mere entry just to show that the petitioners came from other State. According to her, no material has been

provided by the petitioners to believe this statement that just because they are migrated, they are called as “Pardeshi”. She submitted that even affinity test does not match with the caste Arakh. Therefore, she supported the order of the Committee and sought dismissal of the petition.

5. Perusal of record shows that the Committee has considered almost 23 documents. Out of 23 documents, most of the documents reflecting caste of the petitioners as “Pardeshi”. Only in documents dated 08/01/1933 and 09/09/1935, which are the pre-constitutional documents show the caste of the petitioners as “Arakh Pardeshi”. The argument of the counsel for petitioner that just because the petitioners are migrated, therefore, their caste is being shown as “Pardeshi” is not convincing one. Had there been so apart from “Pardeshi”, the original caste i.e. “Arakh” should have been reflected in these documents. Without any cogent material and merely on the statement of the petitioners, it cannot be believed that “Pardeshi” is a mere entry to show that they are migrated from Uttar Pradesh. The Committee has considered

all the documents and found that there are contra entry, even, in pre-constitutional documents.

6. Needless to mention that it is not open for the petitioners to claim that “Arakh” is also part of cast of “Arakh Pardeshi”, which is not mentioned in the Presidential Order. In the cases of *B. Basavalingappa Vs. D. Munichinnappa* [AIR 1965 SC 1269] and *Bhaiya Lal Vs. Harikishan Singh* [AIR 1965 SC 1557], it is held that no inquiry at all is permissible and no evidence can be led into find out and decide that if any tribe/community is included within the scope and meaning of the entry concerned in the Presidential Order when it is not so expressly included.

7. Therefore, the entries of the caste in the documents is to be read as it is, which is mentioned in the Schedule of recognized Scheduled Tribe. There shall not be subtractions, suffices or prefixes of any word, then mentioned in the relevant entry of the Scheduled Tribe. Therefore, the Committee has rightly considered that what has been stated in the Schedule only that is to be considered and not the synonyms.

8. It will be relevant to mention here the decision of the Hon'ble Supreme Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra [(2023) 2 Mh.L.J. 785]*, wherein the Hon'ble Supreme Court has held that affinity test is not a litmus test to decide the caste claim. But when the Committee has doubt over the documents, in that case, affinity test also become relevant.

9. Perusal of the order of the Committee also reveals that the affinity test does not match with the caste of the petitioners. No doubt, the affinity test is not a litmus test to decide the caste of the petitioners, but it is one of the factors to be considered while deciding the caste claim of the petitioners. Finding contra entry in the pre-constitutional documents, the Committee has rightly referred the matter to the Vigilance Cell for enquiry and rightly relied on the finding of contra entry in the pre-constitutional documents and invalidated the caste claim of the petitioners.

10. In view of the law enunciated by the judicial pronouncement, we do not find that the Committee has

committed any illegality in invalidating the caste claim of the petitioners.

11. We do not find force in the argument of the learned counsel for the petitioners that the order of the Committee is erroneous. Therefore, the petition fails and accordingly it is dismissed.

12. Rule stands discharged. No costs.

(M.W.CHANDWANI, J)

(ROHIT B. DEO, J)