

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

(I) WRIT PETITION NO.4281 OF 2021

Santosh s/o Pandharinath Ingle,
 aged about 48 years, occupation :
 service, r/o Dedobaraja Kastuba
 Convent, Gadi Madipura, Taluka :
 Deulgaon, District Buldana.

... Petitioner

- Versus -

- 1) The Vice-Chairman/Member-
 Secretary, Scheduled Tribe Caste
 Certificate Scrutiny Committee,
 Chaprashipura, Amravati Division,
 Amravati.
- 2) The Manager/President,
 Deulgaon Raja Education Society,
 Deulgaon, District Buldhana.
- 3) The Headmaster, Deulgaon Raja
 High School, Deulgaon Raja-443204,
 District Buldhana.
- 4) The Education Officer (Secondary),
 Zilla Parishad, Buldhana.

... Respondents

Ms. Preeti Rane, Advocate for petitioner.

Mrs. S.S. Jachak, Assistant Government Pleader for respondent nos.1
 and 4.

Shri M.R. Joharapurkar, Advocate for respondent nos.2 and 3.

(II) WRIT PETITION NO.4282 OF 2021

Gangadhar s/o Pandharinath Thakur/
Ingle, aged about 58 years,
occupation : service, r/o Vivekanand
Nagar, Taluka Lonar, District Buldana.

... Petitioner

- Versus -

1) The Vice-Chairman/Member-
Secretary, Scheduled Tribe Caste
Certificate Scrutiny Committee,
Chaprashipura, Amravati Division,
Amravati.

2) The President, Shivaji Shikshan
Sanstha, Lonar, District Buldhana.

3) The Headmaster,
Shri Shivaji High School,
Lonar, District Buldhana.

4) The Education Officer (Secondary),
Zilla Parishad, Buldana.

... Respondents

Ms. Preeti Rane, Advocate for petitioner.

Mrs. S.S. Jachak, Assistant Government Pleader for respondent nos.1
and 4.

(III) WRIT PETITION NO.4341 OF 2021

Vaishali s/o Gangadhar Thakur/Ingle,
aged about 26 years, occupation :
Student, r/o Vivekanand Nagar,
Taluka Lonar, District Buldana.

... Petitioner

- Versus -

The Vice-Chairman/Member-Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Chaprashipura,
Amravati Division, Amravati.

... Respondent

Ms. Preeti Rane, Advocate for petitioner.

Mrs. S.S. Jachak, Assistant Government Pleader for respondent.

CORAM : A.S. CHANDURKAR AND
M.W. CHANDWANI, JJ.

DATED : APRIL 17, 2023

ORAL JUDGMENT (PER A.S. CHANDURKAR, J.) :

Rule. Rule is made returnable forthwith. Heard finally
with the consent of the learned Counsel appearing for the parties.

2) The challenge raised in these writ petitions is to the
orders passed by the Scrutiny Committee dated 28/8/2021 and
23/8/2021 thereby invalidating the claim of the petitioners of
belonging to “Thakur” (Scheduled Tribe). Since the petitioners are
blood relatives and have relied on the same set of documents in
support of their tribe claim, the writ petitions are decided together.

3) To substantiate their claim of belonging to “Thakur” (Scheduled Tribe), the petitioners have relied upon various pre-constitutional documents including document dated 30/6/1937 that pertains to their grand-father Pandhari as well as birth extract dated 25/5/1944, which pertains to their cousin grand-father. The Scrutiny Committee while invalidating the claim as made has referred to a document dated 2/7/1968 with the entry “Maratha” as well as a document dated 7/3/1973 wherein entry “Maratha” has been scored out and the word “Thakur” has been inserted. Two other documents dated 18/11/1927 and 1/2/1931 have been disbelieved on the ground that relationship of the petitioners with the said persons has not been established. Another reason assigned is that the forefathers of the petitioners hail from Taluka Risod, District Washim where members of “Thakur” (Scheduled Tribe) do not reside traditionally. The aspect of affinity has also been referred to.

4) On perusing the records of the proceedings, we find that though the petitioners heavily rely upon the documents dated 30/6/1937 and 25/5/1944, the Scrutiny Committee has not recorded any finding whatsoever on these documents. The said

documents have been referred to in the report of the Vigilance Cell and since the petitioners seek to rely upon the same, it was necessary for the Scrutiny Committee to have considered the said aspect. It is also found that the aspect of area restriction cannot be given such importance so as to invalidate the claim on that count. With the removal of area restrictions in the year 1976, the documentary evidence along with affinity test ought to be the primary basis for adjudicating such claim. We also find that the Hon'ble Supreme Court in its recent decision in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and others* (2023 (2) Mh.L.J. 785) has held that the affinity test cannot be treated to be the litmus test while considering such claim and relevance of pre-constitutional documents has been reiterated.

5) In the aforesaid facts, we find that since there has been non consideration of relevant documents and as the aspect of area restriction has been given undue importance, re-consideration of the petitioners' claim is warranted. This is for the reason that determination of social status has the effect on entire family and hence, when a claim is made, all relevant aspects deserve

consideration. For this reason, the impugned orders dated 28/8/2021 and 23/8/2021 are set aside.

6) The petitioners shall appear before the Scrutiny Committee on 2nd May 2023 to enable the Scrutiny Committee to re-consider their claim. Since the report of the Vigilance Cell is already on record, it is not necessary to call for a fresh report in that regard. The Scrutiny Committee shall re-consider the entire record in the light of the observations made hereinabove and pass a fresh order within a period of three months from the date of appearance of the petitioners.

7) In Writ Petition No.4281/2021, since the order passed by the Scrutiny Committee has been set aside, the consequential order terminating the services of the petitioner on 21/9/2021 is set aside. The respondent nos.2 and 3 shall reinstate the service of the petitioner with continuity. The continuation of the petitioner in service would be subject to final outcome of the proceedings for verification. Similarly, the prayer for grant of back wages would also be dependent upon the outcome of those proceedings. After reinstatement, the petitioner will be entitled to receive regular salary.

- 8) Rule is made absolute in the aforesaid terms. No costs.

JUDGE

JUDGE

khj