



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 WRIT PETITION NO. 3918 OF 2007

Dinesh Vasantao Suryawanshi,
age 17 years, Occ. Student,
Through Father and Natural Guardian,
Mr. Vasantao Devram Suryawanshi,
age 47 years, Occ. Service, R/o Ramdadi,
Amalner, Dist. Jalgaon. Petitioner

Versus

1. The State Of Maharashtra
Through the Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste
Certificate Verification Committee,
Nasik Division, Nasik,
Through its Director.
3. The Sub Divisional Officer,
Office of SDO, Bhusaval Division,
Bhusaval, Dist. Jalgaon. Respondents

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Advocate for the Petitioner : Mr. A S Golegoankar
AGP for Respondents 1-3 : Mr. S.K. Shirse

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CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.

Reserved on : March 15, 2024

Pronounced on : March 22, 2024

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FINAL ORDER :- (Per S.G. Chapalgaonkar, J.)

1. The petitioner approaches this Court under Article 226 of the Constitution of India, thereby impugning the order dated 8.1.2007 passed by Respondent No.2 Scheduled Tribe Caste Certificate Verification Committee, Nashik Division, Nashik thereby invalidating petitioner's claim to be belonging to 'Thakur Schedule Tribe.'

2. The petitioner contends that he belongs to 'Thakur' Schedule Tribe, which is recognized as Schedule Tribe as per presidential order. The Respondent No.3 issued caste certificate in his favour. While he was pursuing his education, caste certificate was referred to the Committee for verification. It was supported by the various documents justifying petitioner's claim. However, the Committee erroneously declined to grant caste validity in favour of the petitioner.

3. Mr. A.S. Golegaonkar, learned advocate appearing for the petitioner submit that the Committee adopted hyper technical approach. The petitioner relied upon the pre-constitutional document dated 5.3.1938 regarding his grand father Devram Nathu Suryawanshi which records his caste as 'Thakur' at the time of school admission. Vigilance Cell confirmed genuineness of said document. The petitioner has also relied upon copy of the school leaving certificate of Atamram Nathu Suryawanshi,

which records caste as Hindu Thakur at the time of admission in the school on 9.10.1924. However, Committee failed to consider the aforesaid documents. Mr. Golegaonkar, would further invite our attention to validity certificate issued by the Committee to Sudam Deoram Suryawanshi i.e. uncle of the petitioner. Even, the aforesaid evidence is discarded without assigning proper reasons.

4. Mr. Shirse, learned AGP appearing for respondent nos. 1 to 3 vehemently opposes the petition and supports the impugned order.

5. We have considered the submissions advanced on behalf of the respective parties. Perused the record of the Committee. It is not disputed before us that Sudam Deoram Suryawanshi has been conferred with caste validity on 15.9.2004. Affidavit of Sudam is placed on record depicting relationship with the petitioner. There is no dispute that the Sudam is paternal uncle of the petitioner and the Committee conferred validity certificate on him. The Vigilance Inquiry was conducted in the petitioner's claim. The documents i.e. School entries in the name of Petitioner's father Vasant Suryawanshi, uncle Sudam Deoram Suryawanshi and grand father Deoram Nathu Suryawanshi have been verified. There is specific remark in vigilance report that on 5.3.1938, school entry of Deoram Nathu Suryawanshi (grand father) records his

caste as Hindu Thakur. Vigilance Officer duly verified such entries. No adverse comments are made as regards to those documents. The Committee has mainly relied upon negative remarks in the affinity test while rejecting caste claim.

6. It is well settled that if the caste validity is granted to the paternal blood relatives of the claimant, there is no reason to deviate from such validity, unless it is shown that validity has been obtained exercising fraud or de-horse requisite procedure under the Act or the Rules. At this stage, reference can be given to the observations of the Division Bench of this Court in case of **Apoorva d/o. Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee no.1 and others** reported in **2010 (6) Mh.L.J. 401** wherein it is held in paragraph no.7 thus :-

“7. We thus come to the conclusion that when during the course of inquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the committee may grant such certificate without calling for Vigilance Cell Report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it.”

7. There is nothing on record before us to discard the validity granted in favour of Sudam Deoram Suryawanshi i.e. uncle of the petitioner. The order of the

Committee in the matter of Sudam Suryawanshi depict that police inquiry was conducted and Vigilance Cell report was received which supports the claim of the Sudam on the basis of the document. It is true that the affinity test was not established in that case. However, as observed by the Supreme Court in the case of **Maharashtra Adiwasni Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and others in Civil Appeal No.2502 of 2022 dated 24.3.2023 [reported in 2023 (2) Mh.L.J. 785]**, when claim can be established based on documents, reference to affinity test is optional.

8. Undisputedly, the petitioner's claim has been supported by the pre-constitutional document in the nature of school admission entry no.1938 in the name of his grand father i.e. Deoram Nathu Suryawanshi dated 5.3.1938 which records his caste as Thakur. At this stage, we may refer to the certain observations of the Supreme Court of India in case of **Kumari Madhuri Patil vs Addl. Commissioner on 2 reported in [1995 AIR 94], 1994 SCC (6) 241**, in paragraph no.10 observed thus :-

“10. The entries in the school register preceding the Constitution do furnish great probative value to the declaration of the status of a caste. Hierarchical caste stratification of Hindu social order has its reflection in all entries in the public records. What would, therefore, depict the caste status of the people inclusive of the school or college records, as the then census rules insisted upon. Undoubtedly, Hindu social order is based on hierarchy and caste was one of the

predominant factors during pre-constitution period.”

9. In light of the aforesaid observations, it is well settled that if the petitioner’s claim is supported by pre-constitutional documents having great probative value, the claim can be considered relying upon the documentary evidence, without favorable affinity test. In the present case, we are satisfied that the claim is supported by pre-constitutional document of 1938 in the name of petitioner’s grand father and validity granted in favour of petitioners uncle Sudam Deoram Suryawanshi. In that view of the matter, we find that the impugned order passed by the Committee is not sustainable in law. Hence, we proceed to pass the following order.

ORDER

- i. Writ Petition is allowed.
- ii. The impugned order dated 8.1.2007 passed by the Respondent no.2 The Scheduled Tribe Caste Certificate Verification Committee, is hereby quashed and set aside.
- iii. The Respondent No.2 - The Scheduled Tribe Caste Certificate Verification Committee shall issue validity certificate in favour of the Petitioner to be belonging to “Thakur Schedule Tribe.”

iv. Writ Petition is accordingly disposed off. No costs.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

AAA (f)
