



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10135 OF 2024

Suresh Pandit Thakur,
age 53 yrs, Occ. Service,
Residing at Tondapur, Tq. Jamner,
District Jalgaon.

Petitioner

Versus

1. State of Maharashtra,
Through it's Secretary,
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. Scheduled Tribe Caste Certificate
Scrutiny Committee, Nandurbar Division,
Nandurbar, Through it's Member
Secretary, having it's office at Nandurbar.
3. Sub Divisional Officer, Beed. Respondents.

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Advocate for Petitioners : Mr. R.K.Mendadkar a/w Mr.
V.G. Gangalwad & A.S. Bayas
AGP for Respondents: Mr. A R Kale

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

Reserved on : 08th October, 2024.

Pronounced on : 15th October, 2024.

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

1. The petitioner impugns the order dated 13.8.2018 passed by the respondent no.2-Committee invalidating caste claim of the petitioner for 'Thakur Scheduled Tribe.'

2. Mr. R.K. Mendadkar, learned advocate appearing for the petitioner vehemently submits that petitioner belongs to 'Thakur Scheduled Tribe'. The petitioner has been appointed in service from reserve category of Scheduled Tribe. He had obtained caste certificate from the competent authority and moved respondent no.2-Committee for grant of caste validity certificate. His proposal was consisting of documents of pre-constitutional period in relation to his blood relatives from parental side. Caste claim of the petitioner's son namely Kapil was also submitted to the Committee. The Committee referred the caste claim of the petitioner to Vigilance Cell. Report of the Vigilance Cell was not adverse to the claim of the petitioner. However, respondent no.2-Committee erroneously rejected petitioner's caste claim merely on the ground that documents suggests caste entry as 'Thakur' by placing reliance on the judgment of this Hon'ble Court in case of Dattu Namdev Thakur Vs. The State of Maharashtra and ors. and Monika Thakur Vs. State of Maharashtra. He would further submit that the Committee had erroneously rejected the caste claim of the petitioner and his son vide impugned common order dated 13.8.2018.

3. Mr. Mendadkar would further point out that this Court is pleased to set aside the order of the Committee in Writ Petition no.4603 of 2024 filed by his son Kapil Suresh Thakur and directed issuance of validity certificate in his favour. Consequently, validity certificate is issued in the name of his son-Kapil. He would therefore urge that the impugned order is liable to be quashed and set aside and directions needs to be

issued to the Committee to issue caste validity certificate in favour of the petitioner.

4. Per contra, Mr. A.R. Kale, learned AGP appearing for the Respondent/State strongly opposed the prayer and submits that contents of the Vigilance Cell report are adverse to the claim of the petitioner. Although, this Court has set aside the order of the Committee to the extent of petitioner's son Kapil, aforesaid aspects were not brought to the notice of the Court while deciding the writ petition. Therefore, he urges to reject the writ petition.

5. We have considered the submissions advanced by the learned advocates appearing for the respective parties. Pertinently, the Committee had invalidated claim of petitioner and his son vide common order dated 13.8.2018 after considering the similar set of documents and events. The Committee had refused to rely upon pre-constitutional record of blood relative of the petitioner, which stipulates the caste as "Thakur." Similarly, the Committee has applied principle of area restriction. Apparently, observations of the Supreme Court in case of *Palaghat Jila Thandan Samuday Sanrakshan Samiti and another Vs. State of Kerala and anr. reported in (1994) 1 SCC 359*, as regards to removal of the area restriction by Act of 1976 and consequences of such removal have been ignored by the Committee. The Committee has further relied upon isolated entry of "Other backward-Thakur" in the name of one Suresh Pandit Thakur dated 27.7.1976. However, we find that in view of the law laid down by the Supreme Court of

India in case of **Anand V. Committee for Scrutiny and Verification of Tribe Claims and others reported in (2012) 1 SCC 113**, the stand of the Committee cannot be countenanced.

6. In the present case, we find that the petitioner relied upon older favourable record of pre-constitutional period. Such record cannot be discarded on the basis of isolated post-independent entry in the name of some relative of the petitioner. The Committee has also relied upon the affinity test. However, when there is old pre-constitutional favourable record, affinity test itself cannot form basis to discard such impeccable material. The Committee has also observed that there are no validities in the family of the petitioner but that itself cannot be the ground to discard the tribe claim.

7. Pertinently, this Court while considering the writ petition filed by Kapil i.e. son of the petitioner has dealt with all the aforesaid aspects and held that observations and conclusion of the committee in the impugned order are perverse, arbitrary and unsustainable and consequently, directed issuance of the caste validity certificate to the petitioner's son.

8. Learned AGP do not dispute the aforesaid legal and factual position and fairly conceded that in pursuance of the order dated 9.8.2024 passed in writ petition no.4603 of 2024, caste validity certificate has been issued in the name of petitioner's son. The order passed by this Court is not assailed before the Supreme Court or even the review application is not filed questioning correctness of the order. In light of the

aforesaid observations and law laid down by the this Court in case of *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee no.1 and others (supra) reported in 2010* (6) Mh.L.J. 401 specifically as held in paragraph no.7 which reads 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.”

9. We are of the considered view that the impugned order deserves to be quashed and set aside and allow the writ petition in terms of prayer clauses “A”, “B” and “C”. Writ petition stands **disposed of**.

(S. G. CHAPALGAONKAR)
Judge

(SMT. VIBHA KANKANWADI)
Judge

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