



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

WRIT PETITION NO. 1115 OF 2022

Nakul s/o Ashok Kharat,
Aged about 19 years, Occ.-Student,
R/o At post Aasan Lane, Risod,
Tahsil – Risod, District – Washim.

.... PETITIONER

VERSUS

- 1) The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Chaprashipura,
Amravati.
- 2) The Director,
Government Institute of Forensic Science,
Nipat Niranjana Nagar, Aurangabad-431004.
- 3) The Vice-Chancellor/Registrar,
Dr. Babasaheb Ambedkar Marathwada
University, Near Soneri Mahal, Jaisingpura,
Aurangabad-431004.

.... RESPONDENTS

Ms. Himani Kavi, Counsel for the petitioner,
Mr. A.A. Madiwale, AGP for the respondents/State.

CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.
DATED : 20th JULY, 2024

ORAL JUDGMENT : (Per : Abhay J. Mantri, J.)

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

2. The petitioner is dissatisfied with the order dated 06-12-2021 passed by respondent No.1-Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for short-“*the Committee*”), whereby the claim of the petitioner that he belongs to ‘*Thakur*’ Scheduled Tribe has invalidated.

3. The petitioner claims that he belongs to the ‘Thakur’ Scheduled Tribe. Accordingly, on 17-12-2019, the Sub-Divisional Officer, Risod, District Washim, issued a Caste Certificate in his favour. After that, through the School, the petitioner forwarded his Caste Certificate along with the relevant documents to the Committee for verification on 27-11-2020.

4. The Committee was dissatisfied with the said documents and forwarded the proposal to the Vigilance Cell for a detailed enquiry. After conducting the enquiry, the Vigilance Cell submitted its report to the Committee on 12-08-2021. In pursuance of the said report, the Committee called upon him to explain the observations in the report about the finding of adverse materials about the affinity test during the enquiry. He appeared before the Committee and categorically denied the same.

5. After considering the vigilance cell enquiry report, explanation, and documents on record, the Committee invalidated the petitioner's claim that he belongs to the 'Thakur' Scheduled Tribe. Hence, the petitioner approached this Court.

6. Ms. Himani Kavi, learned Counsel for the petitioner, strenuously argued that as per the judgment in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti v. The State of Maharashtra and others* reported in *2023(2) Mh.L.J. 785*, affinity test cannot be termed as a litmus test and, therefore, the finding given by the Committee is contrary to the settled position of law. Hence, it is liable to be quashed and set aside. She further argued that the petitioner, to substantiate his claim, had produced a copy of the extract of the Birth Register of his great-grandfather Sampati Narayan of 1937, wherein his caste is shown as 'Thakur'. Therefore, she urged that the petitioner discharged his burden as contemplated under Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and Special Backward Category (Resolution of Issuance of Verification of) Caste Certificate Act, 2000 (for short the "*Act of 2000*") and, therefore, she urged that the petitioner is entitled to get the validity certificate.

7. As against Mr. A.A. Madiwale, the learned Assistant Government Pleader resisted the petition on the ground that the petitioner has failed to prove the affinity test and, therefore, he is not entitled to get the Validity Certificate. Hence, he urged for the rejection of the petition.

8. We have considered the rival contentions of the learned Counsel for the parties and perused the impugned order and record.

9. At the outset, it seems that the petitioner in support of his claim has produced as many as nine documents, out of which a copy of the extract of the Birth Register of his great-grandfather Sampati Narayan of the year 1937 depicts that his great-grandfather belongs to 'Thakur' Scheduled Tribe. Neither the Committee nor the Vigilance Cell has disputed the said entry. But it appears that the Vigilance Cell verified the same from the concerned Birth Register and found it correct. *Moreover*, during the vigilance cell enquiry, no adverse entries were found. Thus, it is evident that the petitioner has discharged the burden cast on him under Section 8 of the Act of 2000.

10. It is pertinent to note that the Hon'ble Apex Court in the Case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*, has laid

down the law that “*the affinity test cannot be termed as a litmus test and further observed that the document of the pre-constitutional era has got the more probative value.*”

11. In the backdrop above, the rejection of the petitioner's claim solely based on the finding that the petitioner failed to prove the affinity test is not justified when the petitioner has furnished the pre-constitutional entries of 1937 of his great-grandfather as that he belongs to ‘Thakur’ scheduled tribe.

12. Considering the discussion above, it is evident that the petitioner has substantiated his claim by producing the document of 1937 pertaining to his great-grandfather Sampati Narayan, wherein his caste denotes ‘*Thakur*’. Hence, in our opinion, the committee has erred in rejecting the petitioner's claim. *Per Contra*, based on the said document, the petitioner is entitled to a Validity Certificate.

13. In this background, we deem it appropriate to allow the petition.

(i) The writ petition stands allowed.

(ii) It is hereby declared that the petitioner belongs to the ‘*Thakur*’ Scheduled Tribe.

- (iii) The respondent committee is directed to issue the Validity Certificate in favour of the petitioner within two weeks from the date of production of a copy of this judgment.

14. Rule is made absolute in the terms above. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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