



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

WRIT PETITION NO. 1206 OF 2024

Pratik S/o Prakash Bayaskar
Aged about 21 yrs, Occ. Student,
R/o At-Post-Rajanda, Tah.Barshitakli
Distt. Akola - 444006



.. Petitioner

Versus

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



.. Respondent

Ms. Preeti Rane, Advocate for petitioner.

Ms. N.P.Mehta, Additional Government Pleader for respondent.

CORAM : NITIN W. SAMBRE AND
ABHAY J. MANTRI, JJ.

DATED : AUGUST 16, 2024

ORAL JUDGMENT (Per : Nitin W. Sambre, J.)

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

(2) The Sub Divisional Officer, Murtizapur, District - Akola, issued a caste certificate dated 01/01/2018 in favour of the petitioner of his belonging to "Thakur" (Scheduled Tribe). Since the petitioner was a student of Jawahar Navoday Vidyalaya, Babhulgaon, District - Akola, the Principal of the said School referred his tribe claim to the respondent Committee for verification. The claim of the petitioner

came to be rejected by the respondent Committee vide impugned order dated 29/12/2023. As a sequel of above, the present petition is filed.

(3) The contentions of Ms.Rane, learned Counsel for the petitioner are that the documents, which are produced in support of the claim of the petitioner, speak of "Thakur" (Scheduled Tribe). Our attention is invited to the tribe entries in the documents of relatives of the petitioner, namely, Pralhad Laxman Bayaskar, Yashoda Laxman Bayaskar, Vitthal Laxman, Sadashiv Laxman Bayaskar and Laxman Mahadu Thakur. Based on the entries, which are of pre-Constitutional era, it is claimed that the petitioner has established his tribe claim as the said evidence has more probative value. In addition, it is claimed that rejection of validity is based on failure of the petitioner to give explanation in regard to some documents pertaining to Mahadu Shravan Thakur of 06/08/1919 and other entries at Sr.Nos.23 to 26 mentioned in paragraph (2) of the impugned order, in which no caste is recorded.

(4) As against above, Ms.Mehta, learned Additional Government Pleader for the respondent, has opposed the tribe claim of the petitioner stating that the documents relied on by the petitioner of his great-grandfather, namely, Laxman Mahadu Thakur are dealt with. It is claimed that since the original record of Laxman Mahadu Thakur was lost in fire, sanctity of his documents was unable to be verified. It

is further claimed that the entries in relation to daughter shown to have been born to Mahadu Shravan Thakur in 1919 were not explained by the father of the petitioner. It is further submitted that the tribe claim of the petitioner is also rejected on the ground that he has failed to satisfy the affinity test.

(5) We have considered the rival claims.

(6) It appears that leave apart the documents of 1935 or 1927 in relation to Laxman Mahadu Thakur, which are produced at Sr.No.19 and 20 respectively, the document at Sr.No.21 of Mahadu Shravan Thakur and other documents in relation to father and grandfather of the petitioner, which are produced at Sr.Nos.22 to 26, rest of the documents of 1932 onwards in relation to grandfather, cousin grandfather and paternal aunt of the petitioner in categorical terms establish that the "Thakur" entry was recorded in their School Leaving Certificates. Since these entries are of pre-Constitutional era, they have more probative value. Even if the entries in relation to Laxman Mahadu Thakur and Mahadu Shravan Tahkur of 1935, 1927 and 1919 are ignored in view of the objections raised by the Committee, still the pre-Constitutional era documents of 1932 categorically speak of caste "Thakur" entered into the School record of the grandfather and thereafter father of the petitioner. In this background, based on the documents, which were produced by the

petitioner in support of his tribe claim, it has to be recorded that the petitioner has established that he belongs to "Thakur" (Scheduled Tribe).

(7) Another reason for invalidating the tribe claim of the petitioner is that the petitioner is not able to clear affinity test. The Apex Court has already ruled that the affinity test cannot be termed as a litmus test, which can isolatedly form basis for rejection of the tribe claim.

(8) In this background, having regard to the fact that the petitioner has established his tribe claim of belonging to "Thakur" (Scheduled Tribe), on the basis of the pre-Constitutional era documents in relation to his blood relatives, the impugned order, in our opinion, is not sustainable. That being so, the impugned order dated 29/12/2023 is hereby quashed and set aside. We direct the respondent to issue a validity certificate in favour of the petitioner of his belonging to "Thakur" (Scheduled Tribe) within a period of two weeks from the date of production of this Judgment.

(9) Rule is made absolute in the above terms. No order as to costs.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]

KOLHE