



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

WRIT PETITION NO. 1180/2023

Digambar Shriram Ingle,
aged 50 yrs., Occ. Technician,
Maharashtra State Power Generation
Company Limited, R/o. Urja Nagar
Colony, Chandrapur.

...PETITIONER

VERSUS

1. Scheduled Tribes Caste Certificate
Scrutiny Committee, through its
Member Secretary, Chaprasipura,
Amravati.
2. Chief Manager, Maharashtra State
Power Generation Company Limited,
Urja Nagar, Chandrapur.

Mr. R.S. Parsodkar, Advocate for petitioner.

Ms. Ms. Deepali Sapkal, Asst. Government Pleader for respondent
No.1.

Mr. D.M. Kale, Advocate for respondent No.2.

CORAM : VINAY JOSHI AND
SMT. M. S. JAWALKAR, JJ.

DATE : 11.07.2024

ORAL JUDGMENT : (PER: VINAY JOSHI, J.)

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

2. Being aggrieved by the rejection of caste claim of Thakur Scheduled Tribe Caste by respondent No.1 Scheduled Tribes Caste Certificate Scrutiny Committee ("Committee"), the petitioner has invoked writ jurisdiction of this Court.

3. The petitioner claims to be belonging to the "Thakur Scheduled Tribe Caste". The petitioner's caste claim was forwarded to the respondent No.1 Committee for verification and issuance of validity of certificate. The petitioner has submitted various documents including pre-constitutional documents in support of his caste claim. Vigilance inquiry was done regarding the petitioner's caste claim. The Committee was dissatisfied with the documents tendered by the petitioner resulting into rejection of petitioner's caste claim. The Committee has observed that the petitioner failed in affinity test. Moreover, it is observed that the "Thakur" community is also in upper caste, hence the possibility of petitioner being of upper caste cannot be

ruled out. Besides that, by citing various decisions of the Court, the caste claim was rejected.

4. The learned counsel appearing for the petitioner vehemently argued that though the petitioner has submitted various pre-constitutional documents, the Committee has sidelined them on perfunctory grounds. It is argued that none of the pre-constitutional document was doubted by the Vigilance Cell. Moreover, no adverse documents have been procured by the Vigilance Cell.

5. The petitioner has produced in all 21 documents as referred in the impugned order to support his claim of “Thakur” caste. Particularly, emphasis is laid on school living certificate of petitioner’s father Shriram dated 03.07.1936, Dakhal Khari Register of Shriram dated 01.07.1936, School Leaving Certificate of petitioner’s uncle Laxman dated 19.06.1940. All these documents shows the entry of “Thakur” caste which bears significance as they are pre-constitutional one. The Committee never doubted about the genuineness of these documents. Apparently, only on the failure in affinity test, the caste claim has been rejected.

6. The learned counsel appearing for petitioner relied on the decision in case of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims (2012)(1) SCC 113**, wherein it is ruled that the affinity test may not be regarded as litmus test for establishing the link of the petitioner with a Scheduled Tribe. The affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim. Besides that the petitioner relied on the decision of this Court **Jaywant Dilip Pawar Vs. State of Maharashtra & ors, 2018(5) ALL MR 975 (S.C.)**, wherein the area restriction has been removed.

7. We have examined the impugned order which does not assign substantial reasons to discard the pre-constitutional documents of which genuineness has not been doubted. Particularly document of the year 1936 bears a primacy. It is well settled that more importance shall be given to the pre-constitutional documents. Besides that series of documents have been produced showing the entry of “Thakur” caste. No adverse documents have been procured and thus, it is difficult to accept the view expressed by the Committee.

8. Having regard to the pre-constitutional documents and other material, we are of the considered opinion that the Committee failed in error in rejecting the petitioner's caste claim. In view of that, petition deserves to be allowed, hence following order:-

(I) Petition is allowed. We hereby quash and set aside the impugned order 24.01.2023 passed by respondent No.1 Committee.

(II) We hereby declare that the petitioner has duly established that he belongs to "Thakur" Scheduled Tribe which is enlisted at Serial No. 44 in the Constitution (Scheduled Tribes) Order, 1950

(III) Respondent No.1 Committee is directed to issue caste validity certificate to the petitioner of "Thakur" Scheduled Tribe within four weeks from the date of communication of this order.

(IV) Petition stands disposed of in above terms.

(SMT. M. S. JAWALKAR, J.)

(VINAY JOSHI, J.)