



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

WRIT PETITION NO. 3114 OF 2024

1) Ankita D/o Ravindra More
Aged about 27 yrs, Occ. Student

2) Abha D/o Ravindra More
Aged about 24 yrs, Occ. Student

Both R/o M-104, Kirti Apartment,
Nandanvan Cement Road,
Nandanvan, Nagpur – 440009

.. Petitioners

Versus

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

.. Respondent

Ms. Preeti Rane, Advocate with Ms. Geeta Tiwari, Advocate for
petitioners.

Mr. N.R.Patil, Assistant 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, Risod, District – Washim,
issued a caste certificate dated 30/03/2019 in favour of the petitioners
of belonging to “Thakur” (Scheduled Tribe). Since the petitioners were

students of Post Graduate Teaching Department of Home Science, Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur, the Principal of the said Department referred the tribe claim of the petitioners to respondent Committee for verification. Vide impugned order dated 29/12/2020, the claim of the petitioners for issuance of validity certificate came to be rejected by the respondent Committee. As a sequel of above, the present petition.

(3) The contentions of Ms.Rane, learned Counsel for the petitioners, are that the documents, which are produced in support of the tribe claim of the petitioners speak of "Thakur" (Scheduled Tribe). Our attention is invited to the tribe entries in the documents of relatives of petitioners, namely, Yadav Dajiba (School record 19/07/1922), male child born to Bajirao (15/03/1924), Rajaram Sitaram (School record 19/09/1926), male child born to Bajirao Thakur (22/11/1926), Apparao Bajirao (grandfather of the petitioners – School record dated 23/06/1930), Atmaram Sitaram (School record – 30/06/1931), Vinayak Kisanrao More (School record 18/06/1941), male born to Atmaram Sitaram Thakur (19/05/1947), female child born to Shankar Bajirao Thakur (18/05/1947). Based on these entries, which are of pre-Constitutional era, it is claimed that the petitioners have established their tribe claim as the said evidence has more probative value.

(4) As against above, Mr.N.R.Patil, learned Assistant Government Pleader for the respondent, has opposed the tribe claim of the petitioners stating that considering the documents relied on by the petitioners at Sr.Nos.1 to 3 as mentioned in paragraph (13) of the impugned order viz. Dajiba Yadav, male child born to Bajirao and Rajaram Sitaram, the petitioners have failed to establish their relation with them. It is further submitted that the tribe claims of the petitioners were also rejected on the ground that they have failed to satisfy the affinity test.

(5) We have considered the rival claims of the parties.

(6) Even if birth entry dated 22/11/1939 in relation to Suman Shankarrao More is shown to be "Maratha Thakur", the entry taken in the column of relationship depicts that the relationship was not disclosed by the petitioners with the said party. Even if it is presumed that there is a blood relationship of the said party with petitioners, the entries prior to 1939 i.e. 1922, 1924, 1926, 1930, 1931 in the documents referred to at Sr.Nos.1 to 6 in the impugned order, in categorical terms speak of "Thakur" caste. In that view of the matter, if the adverse entry in relation to Suman Shankarrao More as belonging to "Maratha Thakur" is ignored, still the petitioner can be said to have established the claim based on the pre-Constitutional era documents of belonging 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 the basis for rejection of the tribe claim.

(8) In this background, having regard to the fact that the petitioners have established their tribe claims of belonging to "Thakur" (Scheduled Tribe), on the basis of pre-Constitutional era documents in relation to their blood relatives, the impugned order, in our opinion, is not sustainable. That being so, the impugned order dated 29/12/2020 is hereby quashed and set aside. We direct the respondent to issue validity certificates in favour of the petitioners of their 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