



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

WRIT PETITION NO.7512 OF 2023

Krishna s/o Vinod Sapkal (Minor)
through his natural guardian (mother) –
Smt. Chandrabhaga wd/o Vinod Sapkal ,
aged 37 years, Occu- Household work,
R/o Mera Khurd, Tq. Chikhali, Dist.
Buldana.

... PETITIONER

VERSUS

The Chairman, the Schedule Tribe
Caste Certificate Verification
Committee, Amravati Division, Dist.
Amravati.

... RESPONDENT .

Shri G.R. Kothari, Advocate for the petitioner.
Shri N.R. Patil, Assistant Government Pleader for the State.

CORAM : VINAY JOSHI AND SMT. M.S. JAWALKAR, JJ.
DATED : 13.06.2024.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

RULE. Rule made returnable forthwith.

2. This petition is under Article 226 and 227 of the
Constitution of India seeking to quash and set aside the impugned

order dated 21.08.2023 passed by the respondent the Chairmen, The Schedule Tribe Caste Certificate Verification Committee, Amravati Division, District Amravati by which the caste claim of the petitioner as belonging to “Thakur” - Scheduled Tribe has been invalidated. In consequence, the petitioner sought directions to the Scrutiny Committee to issue the caste validity certificate.

3. With the assistance of both side, we have examined the entire material made available on record. The petitioner has mainly relied on certain pre-constitutional documents, which are referred by the Scrutiny Committee at Serial No.6, 7, 10, 11 and 22 in the impugned order itself. These document pertains to the petitioner's grandfather, great grandfather, cousin grandfather and cousin great grandfather. All the document discloses pre-constitutional entries of “Thakur” caste. Besides that the petitioner has relied on prior validity issued in the family, which have also been referred by the Scrutiny Committee at Serial No. 13, 15 to 20 in its decision. The petitioner fairly pointed out that his father's validity was rejected in the year 2005 on the premise of failure to withstand on affinity test, but since the petitioner's father died the said invalidity has not been challenged.

4. It is apparent from the impugned order that only because

the petitioner failed in the affinity test, the caste validity has been rejected. The Caste Scrutiny Committee appears to have sidelined the prior validities without substantial reason, which is against the spirit of the decision of the Supreme Court in case of *Apoorva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and other 2010 (6) Mh.L.J. 401*.

5. The learned Counsel for the petitioner has particularly tendered orders of this Court passed in Writ Petition Nos.1079 of 2005 and 4629 of 2013, whereby this Court has granted validity to the petitioner's cousin uncle Ganesh Thakur, and petitioner's cousin cousin uncle Sharad Thakur by considering the entire material. Rather while decided the claim of petitioner's cousin uncle Ganesh Thakur, this Court has delve upon the entire material and the settled position of law. The vigilance report does not show any adverse documents to discard the petitioner's validity claim. It is well settled in the case of *Anand vs. Committee for Scrutiny and Verification of Tribe Claims 2011 (6) Mh.L.J.(SC) 919* that while dealing with the documentary evidence, greater reliance may be placed on pre-independance documents because they furnish a higher degree of probative value.

6. Taking all over view of the matter, we are convinced that

the Committee erred in appreciating the pre-constitutional documents as well as prior validities in proper perspective. Pertinent to the note that no plea has been taken that these documents are obtained by fraud or misrepresentation.

7. Considering the peculiar fact, that the petitioner a student is required to submit his caste validity at the time of document verification for Centralize Admission Process (CAP) round, the validity needs to be issue expeditiously, hence we pass the following order :

- (a) The Writ Petition is allowed.
- (b) The order passed by the respondent the Chairmen, The Schedule Tribe Caste Certificate Verification Committee, Amravati Division, District Amravati dated 21.08.2023 is hereby quashed and set aside.
- (c) It is declared that the petitioner has established his caste claim for “Thakur” - Scheduled Tribe which is an entry at serial No.44 of Constitution (Scheduled Tribes) Order, 1950. Respondent Scrutiny Committee is accordingly, directed to issue validity certificate in his name, within a period of two weeks from today.
- (d) Petitioner would be entitled to all the benefits of

Scheduled Tribe.

8. Rule is made absolute in aforesaid terms, with no order as to costs.

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

(VINAY JOSHI, J.)

Trupti