



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

Writ Petition No.8261 of 2023

Petitioners : : 1. Ashok s/o Madhav Ingle,
 Aged about 56 yrs., Occ. Service.
 2. Gaytri d/o Ashok Ingle,
 Aged about 27 yrs., Occ. Student.
 Both r/o At-Post Shrikrupa Residency,
 Adalsana Road, Near Patwari Colony, Shegaon,
 Tah. Shegaon, Distt. Buldhana – 444 203.
 – Versus –

Respondents : : 1. The Vice-Chairman/Member-Secretary,
 Scheduled Tribe Caste Certificate Scrutiny
 Committee, Yavatmal.
 2. The Superintending Engineer,
 Irrigation Department, Buldhana,
 Tah. & Distt. Buldhana.
 3. The Executive Engineer,
 Jigaon Project Division and Punarvasan
 Department, Shegaon, Dist. Buldhana.
 4. The Assistant Engineer,
 Jigaon Project Sub-Division No.2, Mandwa,
 Shegaon, Dist. Buldhana.

 Ms. Preeti Rane, Advocate for the Petitioners.
 Ms. Deepali Sapkal, A.G.P. for Respondent Nos.1, 2 & 4.
 Mr. Ritesh Kalra, Advocate for Respondent No.3.

CORAM : VINAY JOSHI AND M.W. CHANDWANI, JJ.
DATE : 29th JULY, 2024.

ORAL JUDGMENT : (Per Vinay Joshi, J.)

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

02] The petitioners, who are father (Ashok) and daughter (Gaytri), have impugned herein the orders of invalidation dated 31/10/2023 passed by respondent No.1-Committee, under the writ jurisdiction of this Court.

03] The petitioners' caste claims for "Thakur" – Scheduled Tribe, which is an entry at Sr. No. 44 in the Constitution (Scheduled Tribes) Order, 1950 have been forwarded for verification and issuance of validity certificates. The petitioners, who are father and daughter, have tendered almost same documents to the Committee for evaluation of their caste claims. These documents consist of pre-constitutional and post-constitutional entries of "Thakur" caste in the family. They have also produced prior validity certificates issued to the blood relatives in the family. The Committee has twice obtained vigilance report. Being dissatisfied on the documents and on account of failure in affinity test, the petitioners' caste claims were rejected.

04] Since, Gayatri is a daughter, we have referred the impugned order pertaining to father (Ashok) for the sake of convenience. Petitioner-Ashok has produced in all 24 documents as referred in the impugned order. Particular emphasis is laid on the documents at Sr. Nos.12 and 19 to 24 showing pre-constitutional entries of "Thakur" caste.

05] With the assistance of both sides, we have gone through these documents. Document at Sr. No.12 is a School Leaving Certificate of the

petitioner's father-Madhav showing the entry of "Thakur" caste dated 20/06/1945. Document at Sr. No.19 is a School Leaving Certificate of petitioner's uncle-Pandhari, which also shows entry of "Thakur" caste dated 17/06/1938. At Sr. No.20, the petitioners have produced School Leaving Certificate, dated 17/06/1938 of his cousin uncle-Datta bearing entry of "Thakur" caste. At Sr. No.21, School Leaving Certificate dated 05/04/1933 of petitioner's real uncle-Keshav and at Sr. No.22, Birth Extract of petitioner's father-Madhav dated 09/04/1938 showing entry of "Thakur" caste is produced. Document at Sr. No.23 and 24 are Birth Extracts showing the petitioner's grandfather-Bankat has male issues, which are dated 05/08/1927 and 20/04/1931 bearing the entry of "Thakur" caste.

06] The Committee has discarded above documents only for a reason of minor discrepancy in date of birth in the document at Sr. No.12. The petitioner has produced the copy of service book which is in consonance with date of birth, thus, the said objection seems to be unacceptable. Besides that, we do not see any substantial reason to discard these old documents on the canvass that genuineness and relationship have not been disputed.

07] The petitioner has produced three prior validity certificates issued in the family. These validity certificates are of the petitioner's real brother-Suresh, dated 19/01/2011, cousin uncle-Bhagwat, dated 19/04/2003

and of cousin sister Sujata of 25/04/2011. Though the relationship has not been disputed, the Committee has discarded the validity certificates on the ground that they have been issued by Aurangabad Scrutiny Committee. The petitioner has produced the documents showing that he belongs to the Washim region and the documents are from the said area. It reveals that the said validity certificates were issued prior to 10 years and considering the then position, their effect cannot be nullified. The law in this regard is well settled in the case of **Apoorva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and other - 2010(6) Mh.L.J. 401** that if the validity certificates have been issued to the blood relatives in the family, the applicants are entitled thereof.

08] Moreover, the petitioners' learned Counsel has attracted our attention to the observations made by the Supreme Court in paragraph 22 of the decision in the case of **Maharashtra Adiwasī Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and others – 2023(2) Mh.L.J. 785**, wherein it has been observed that in case of prior validities, the Committee has to scrutinize, whether the certificate is genuine and, secondly, the petitioner has established his blood relation with the validity holders. As stated above, the petitioner's case stands on both the reasons.

09] It reveals from the impugned order that on the basis of some sale-deeds that too executed after the year 2000, the Committee suspected about the petitioner's caste claim. It is stated that in those sale-deeds, the petitioner and his relatives have not mentioned their caste and, more particularly, though they are tribal, without obtaining permission from the competent authority, sale-deeds have been executed. We have gone through the sale-deeds executed by the petitioner, which do not bear a reference that the petitioner belongs to any other caste. Merely because permission of competent authority to sell the land of tribal is not obtained, that cannot be a reason on the canvas of various pre-constitutional entries right from the year 1927. As regards to the failure of affinity test, in case of *Anand vs. Committee for Scrutiny and Verification of Tribe Claims and others - 2011(6) Mh.L.J. 919*, it has been clarified that affinity shall be used as a support or corroboration, but it cannot be construed as a litmus test.

10] In view of above, we hold that the petitioners have established their caste claims of "Thakur" - Scheduled Tribe. Hence, the following order.

ORDER

- I. The Writ Petition is allowed.
- II. Impugned orders passed by respondent No.1-Schedule Tribe Caste Certificate Scrutiny Committee, Yavatmal, both dated

31/10/2023 are hereby quashed and set aside.

- III. It is declared that the petitioners have established their caste claims for “Thakur” - Scheduled Tribe, which is an entry at serial No.44 of Constitution (Scheduled Tribes) Order, 1950.
- IV. Respondent No.1-Scrutiny Committee is accordingly directed to issue validity certificates in their names, within a period of four weeks from today.
- V. The petitioners would be entitled to all the benefits flowing for the issuance of validity certificates.

**sandesh*

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)