



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

WRIT PETITION NO. 2022 OF 2024

with

WRIT PETITION NO. 2010 OF 2024

with

WRIT PETITION NO. 1869 OF 2024

with

WRIT PETITION NO. 2148 OF 2024

WRIT PETITION NO. 2022 OF 2024

1. Kalyani d/o Dnyaneshwar More,
Aged about 25 yrs, occ. Student,

2. Siddesh s/o Dnyaneshwar More,
aged about 20 yrs, Occ. Student,

Both r/o. Wakad, Tahsil Risod,
District Washim

..... **PETITIONERS**

...V E R S U S...

The Vice Chairman/Member
Secretary, Scheduled Tribe
Caste Certificate Scrutiny
Committee, Yavatmal.

.....**RESPONDENT**

WRIT PETITION NO. 2010 OF 2024

Tanmay s/o. Dhananjay More,
Aged about 17 yrs, occ. Student,
through Natural Guardian Father,
Dhananjay s/o.Vitthalrao More,
Aged 51 yrs, Occ. Agriculturist,
R/o. At Post Wakad, Tahsil Risod,
District Washim

..... **PETITIONER**

...V E R S U S...

The Vice Chairman/Member
Secretary, Scheduled Tribe
Caste Certificate Scrutiny
Committee, Yavatmal.

.....RESPONDENT**WRIT PETITION NO. 1869 OF 2024**

Harshali D/o Vilas More,
(Sau. Harshali w/o. Nitin Chavan)
Aged about 33 yrs, Occ. Student,
R/o Wakad, Tahsil Risod,
District Washim

..... PETITIONER**...V E R S U S...**

The Vice Chairman/Member
Secretary, Scheduled Tribe
Caste Certificate Scrutiny
Committee, Yavatmal.

.....RESPONDENT**WRIT PETITION NO. 2148 OF 2024**

Rutuja d/o. Vidhyadhar More,
Aged about 17 yrs, occ. Student,
through Natural Guardian Father,
Vidyadhar s/o. Damodhar More,
Aged 45 yrs, Occ. Agriculturist,
R/o. At Post Wakad, Tahsil Risod,
District Washim

..... PETITIONER**...V E R S U S...**

The Vice Chairman/Member
Secretary, Scheduled Tribe
Caste Certificate Scrutiny
Committee, Yavatmal.

.....RESPONDENT

Ms. Preeti Rane, Advocate with Ms.Himani Kavi, Advocate for the petitioners,
Mr. N.S. Rao, Assistant Government Pleader for respondent.

CORAM:- NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.

CLOSED FOR JUDGMENT : 08.07.2024
PRONOUNCED ON : 02.08.2024.

JUDGMENT (Per : Abhay J. Mantri, J.)

1. **Rule.** Rule made returnable forthwith and heard finally, with the consent of the learned Counsel for the parties.
2. The challenge raised in all these petitions is to the orders dated 31.10.2023, passed by respondent Scheduled Tribe Caste Certificate Scrutiny Committee, Yavatmal (*for short -“the Committee”,*) whereby the caste claim of the petitioners that they belong to the “*Thakur*” Scheduled Tribe came to be rejected.
3. The petitioners are in blood relations with each other, and as such, all these petitions are disposed of by this common judgment, with the consent of the respective parties.
4. The petitioners claim to belong to the ‘*Thakur*’ Scheduled Tribe. The proposal for their caste verification was sent to the Committee, which was forwarded to Vigilance Cell for enquiry.

The Vigilance cell conducted the enquiry and submitted its report to the committee. The petitioners were called upon to submit their explanations to the said reports. After offering an opportunity to hear the petitioners and considering the record and the Report, the Committee vide impugned orders invalidated the petitioners' claim, observing that they failed to prove the affinity test. Etc.

5. Heard Ms. Himani Kavi, the learned Counsel for the petitioners and Mr. N.S. Rao, the learned Assistant Government Pleader for respondent/Committee.

6. Learned Counsel for the petitioners has vehemently contended that all the petitioners belong to the 'Thakur' Scheduled Tribe Category. In support of their claim, the petitioners have produced documents from 1917 to 1948 from a pre-constitutional era in which the caste of their ancestors is shown as '*Thakur*'. Said documents have more probative value.

7. Apart from that, the petitioners have produced four 'validity certificates' granted in favour of their blood relatives, viz.,

the paternal aunt, cousin sister and cousin uncle. Therefore, he has drawn support from the decision of this court in the case of *Apoorva Vijay Nichale Vs. Divisional CasteCertificate Scrutiny Committee and others (2011(2) BCR 824*, urged that the petitioners are entitled to the validity certificates. It is argued that without considering those documents, the Committee has rejected the petitioners' claim as they failed to prove the affinity test and the fact of the area restrictions.

8. In support of the claims, the learned counsel has relied upon the judgment of this Court in *Writ Petition No. 2750/2019 (Sou. Sheela w/o. Sudhakar Gathe Vs. The Scheduled Tribe Caste Certificate Scrutiny Committee and others)* and *Writ Petition No. 1602/1998 (Nandkumar s/o. Manohar More Vs. The State of Maharashtra and Others)* wherein it is held that the petitioners belong to Thakur Scheduled Tribe Category and directed the Committee to issue caste validity certificate in their favour. Hence, she has urged to allow the petitions.

9. *Per contra*, the respondents, in their reply, admitted that the petitioners had produced six documents from the year 1917 to 1948 pertaining to their ancestors wherein their caste is mentioned as Thakur; however, they resisted the claim on the ground that the

ancestors have not obtained the necessary permission from the Collector while transferring the lands possessed by them to the non-tribals and therefore, the Committee has rightly rejected the claims of the petitioners. It is further submitted that the Committee, while considering the validity certificates issued in favour of the blood relatives of the petitioners, has discussed elaborately and held that those are not helpful to the petitioners in support of their caste claims. Hence, he urged for the rejection of the petitions.

10. We have considered the rival submissions and perused the orders impugned, record, and judgments relied upon.

11. It seems that the petitioners to substantiate their claims have produced as many as 30 documents; out of them, six documents are from the pre-constitutional era from 1917 to 1948, wherein the caste of the ancestors of the petitioners is shown as the '*Thakur*'. However, they only contended that the ancestors of the petitioners had not obtained the necessary permission from the Collector while transferring the lands. Therefore, the Committee doubted the authenticity of the pre-constitutional documents. We do not find substance in said contentions, as said transactions would

not affect the petitioners' claim that they belong to the '*Thakur*' scheduled Tribe. Besides, undisputedly, neither the Vigilance Cell nor the Committee has objected to the entries in the pre-constitutional era documents. As such, the question of doubting the said documents does not arise. On the contrary, in several cases, the Hon'ble Apex Court and this Court categorically held that pre-constitutional documents have more probative value than subsequent documents. The six documents produced from 1917 to 1948 pertaining to ancestors of petitioners depict their caste as '*Thakur*'.

12. Apart from the above, the petitioners have produced four caste validity certificates on record, which were issued in favour of the petitioners' blood relatives. The Vigilance Cell or the Committee do not dispute this fact, but the same were discarded on the grounds that ancestors had not obtained prior permission from the collector while transferring the lands, so they doubted the authenticity of the documents. In view of the above discussion, in our view, the reason assigned by the committee appears unwarranted.

13. In such an eventuality, it reveals that the petitioners have discharged the burden cast upon them as contemplated under Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jati), Nomadic Tribes, Other Backward Classes, and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (*“the Act”*, for short).

14. In addition, in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Others (AIR 2023 SC 1657)* held that *“an affinity test cannot be termed as a litmus test while deciding caste claims, and area restrictions are removed.”* Therefore, the question of refusing to grant certificates based on the finding of area restriction and affinity tests is not justified. Hence, we do not find any substance in the committee's findings in that regard. Rather, as discussed above, the pre-constitutional entries have more probative value while determining the petitioners' claim.

15. The petitioners have produced four validity certificates of their blood relatives. In such an eventuality, the Committee was bound to issue validity certificates in their favour since it is not the view of the Committee that such certificates were obtained by fraud

or were issued without jurisdiction. In view of the above, we do not find any reason to reject the petitioners' claim.

16. Considering the discussion supra, pre-constitutional era entries and the settled position of law in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* and *Apoorva Vijay Nichale (supra)*, the petitioners are entitled to get the validity certificates as claimed. As a result, the findings given by the Committee appear contrary to the documents on record and the law laid down by the Hon'ble Apex Court and this court in the above cases. Thus, all the orders passed by the Committee are not sustainable in the eyes of the law and are liable to be quashed and set aside.

17. As a result, we deem it appropriate to allow the petitions by quashing the orders dated 31.10.2023, passed by the respondent Scheduled Tribe Caste Certificate Scrutiny Committee, Yavatmal, and order accordingly.

18. All writ petitions are allowed. It is hereby declared that the petitioners have proved that they belong to the 'Thakur' Scheduled Tribe Category. The respondent Committee is

directed to issue caste validity certificates in favour of the petitioners within four weeks from the date of production of this order.

19. Rule is made absolute in all the writ petitions in the terms above. No costs.

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(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)