



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

WRIT PETITION NO. 4421 OF 2024

Gajanan s/o Uddhav Chavan,
Age 31 years, Occupation – Student,
R/o At Post Anjani Khurd, Tq. Lonar,
District Buldhana.

.... PETITIONER

VERSUS

Scheduled Tribe Caste Certificate
Scrutiny Committee, through its
Vice Chairman/Jt. Commissioner,
Amravati Division, Old Bypass Road,
Chaprashipura, Amravati.

.... RESPONDENT

Mr. R.S. Suryawanshi, Counsel for the petitioner,
Mr. S.M. Ukey, Addl. G.P for the respondent.

CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.
DATE : 20th SEPTEMBER, 2024

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

Rule. Rule is made returnable forthwith and heard by
consent of the learned counsel for the parties.

2. The petitioner's claim that he belongs to 'Thakur'
Scheduled Tribe came to be rejected vide order dated 13-06-2024 by
the respondent-Scheduled Tribes Caste Certificate Scrutiny Committee,
Amravati (for short, "Committee"). Hence, this petition.

3. The petitioner claims to belong to the '*Thakur*' Scheduled Tribe. Accordingly, on 07-09-2015, the Sub-Divisional Officer, Mehkar, issued a Caste Certificate in his favour. To avail the benefit of the reserved category through the college, he submitted the Caste Certificate along with the documents to the Committee for verification.

4. Since the Committee was of the view that the petitioner's claim is doubtful, it was referred to the Vigilance Cell for enquiry. The Vigilance Cell conducted the enquiry and submitted its report to the Committee. Pursuant to the report, the Committee issued a show cause notice dated 11-01-2021 to the petitioner and called upon him to explain the adverse entries mentioned therein. The petitioner submitted his written submission-cum-explanation before the Committee.

5. After considering the documents, the vigilance cell report and the petitioner's explanation, the Committee vide order dated 17-05-2023 invalidated the petitioner's claim. The petitioner challenged the said order before this Court in Writ Petition No. 4059/2023. This Court, after considering the documents on record, vide judgment dated 03-10-2023, quashed and set aside the invalidation order, and the matter was remanded back to the Committee for

reconsideration and decide afresh in the light of the observations made in paragraph 7 of the said judgment.

6. Pursuant to the order of this Court, the Committee again forwarded the documents to the Vigilance Cell for thorough enquiry about the document dated 09-04-1903 and other documents produced by the petitioner. Accordingly, the Vigilance Cell conducted a detailed inquiry and submitted its report to the Committee on 07-02-2024. The Committee issued a show cause notice to the petitioner and called upon him to explain the adverse entries therein. On 26-02-2024, the petitioner submitted a detailed explanation to the said show cause notice. In the explanation, he categorically stated that the entry dated 18-06-1914, recorded in the name of one 'Govind,' is not in his relation, and he has no concern for him. He categorically denied the said entry.

7. He further contended that on 30-06-2000, the Scrutiny Committee at Nashik issued a Validity Certificate in favour of his real cousin brother Gajdatta Marotrao Chavan and produced the same before the Committee. He also relied on the entry dated 01-03-1909 pertaining to his cousin grandfather Govinda Amruta, whose caste is recorded as '*Thakur*'. Pursuant to the said document, he urged the Committee to issue the Validity Certificate in his favour.

8. After affording an opportunity to hear the petitioner, the Committed vide impugned order rejected the tribe claim of the petitioner.

9. Mr. R.S. Suryawanshi, learned Counsel for the petitioner, has vehemently argued that the petitioner, in support of his case, has produced seventeen documents; out of them, three documents are of a pre-constitutional era wherein his ancestors' caste has been recorded as 'Thakur'. To substantiate his claim, he has also relied upon the Validity Certificate issued in favour of his real cousin, brother Gajdatta Chavan. However, the Committee erred in discarding those documents and giving undue importance to the entry dated 18-06-1914 in the name of one Govind and erred in rejecting the tribe claim of the petitioner.

10. He also canvassed that the entry dated 18-06-1914 is about one Govind who is not in relation to the petitioner. He has no concerns with him, and therefore, the Committee's findings based on the irrelevant document are not sustainable in the eyes of the law. He has further propounded that in view of the law laid down in the case of *Apoorva Vinay Nichale v. Divisional Caste Certificate Scrutiny Committee No.1, and others, 2010 (6) Mh.L.J. 401*, the petitioner is entitled to the Validity Certificate, therefore, urges for allowing the petition.

11. As against above, Mr. S.M. Ukey, learned Additional Government Pleader, opposes the prayer as, according to him, the pre-constitutional entries in relation to one Govind, as well as cousin grandfather Gopala and great-grandfather Amruta speak of caste entries of '*Bhat*' and '*Thakar*' which the petitioner must explain. However, the petitioner has failed to explain the adverse entries and thereby failed to discharge the burden cast on him under Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes, and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short, "*Act of 2000*"). He has further submitted that the Committee has considered and discussed various documents in the order impugned to support the finding of invalidation of the tribe claim of the petitioner. As such, he urges the dismissal of the petition.

12. We have dealt with the rival submissions of the learned Counsel for the parties and perused the impugned order and record.

13. It is pertinent to note that this Court, in paragraph No.7 of the judgment dated 03-10-2023 passed in Writ Petition No.4059/2023, has categorically observed the reasons for remanding the matter back

to the Committee and directed to consider the documents dated 09-04-1909 and Validity Certificate submitted by the petitioner. However, the Committee has discarded the entry dated 09-04-1903 on the ground that the said record was in '*Modi* script' and, therefore, the Vigilance Cell was not able to read the said record. Secondly, it has been observed that the issuance of the certified copy of the said document by the headmaster and translation of the same from one Sahebrao Gaikwad and Nivrutti Gaikwad, connoisseur of the *Modi* script. For that, the Committee has observed that he has issued the said certificate without any rights. It is pertinent to note that the Vigilance Cell committee has not disputed the entries dated 01-03-1909 recorded in the school admission register but only disputed that same was written in *Modi* script and none of the persons acquainted with the said script to translate the same, hence discarded. Said finding itself appears contrary to the facts on record. The Committee has no reason to discard the certified copy of the document issued by the headmaster, who is the competent authority to issue the same from the official record. On the contrary, it was incumbent on the Vigilance Cell to verify the said entry from the person who was acquainted with the *Modi* script, but they failed to do so and, therefore, in our view, the Vigilance Cell, as well as the Committee has erred in discarding the said oldest document of 1909. The said entry denotes that Govinda

was born on 09-04-1903. In the said document, his caste was recorded as '*Thakur*'.

14. The second document on which the Committee has placed reliance is dated 18-06-1914. The entry denotes that a son was born to the so-called Govind on that day. In the said entry, the son's name of Govind was not mentioned. On perusing the entry dated 01-03-1909, it seems that Govind's date of birth is shown as 19-03-1903, which means that on 18-06-1914, Govind was only eleven years old. Therefore, it creates doubt that the entry dated 18-06-1914 was in relation to the Govinda Amruta as in the said entry, it was shown that the son was born to him, who was only 11 years old.

15. Apart from this, the petitioner vide explanation dated 26-02-2024 has categorically denied his relationship with the so-called Govind. However, he categorically averred that the so-called Govind was not in his blood relations and that his father's name was not mentioned in the said entry. In such an eventuality, it was incumbent on the Vigilance Cell to conduct a thorough enquiry in respect of said Govind, but without conducting the enquiry and relying on the said single entry of Govind, the Committee has discarded the claim of the petitioner.

16. The other two documents of the years 1913-1914 and 16-02-1919 pertaining to the great-grandfather and cousin-grandfather of the petitioner, wherein their caste was recorded as 'Thakar' instead of 'Thakur'. Both these documents are subsequent to the document of 1909 wherein Amruta's caste was recorded as '*Thakur*'. In addition, the 'Thakar' Tribe/caste is also included in Entry No.44 of the Presidential Order, 1950. Therefore, in our view, these entries would not affect the petitioner's claim.

17. The Committee, in paragraph No.4 of the impugned order, has referred the documents at Sr. Nos.3 to 7, 11 and 16 wherein the petitioner and his ancestor's caste have been recorded as 'Thakur'. Document at Sr.No.6 is the School Leaving Certificate of Dashrath-the petitioner's grandfather. The said document is dated 11-03-1929. Likewise, the copy of the birth extract register dated 22-07-1914 pertaining to the great-grandfather of the petitioner denotes that one daughter begotten to Amruta Thakur. The third document, dated 19-03-1949, relates to the grandfather of the petitioner, namely Dashrath. The said entry denotes that the son was born to Dashrath. All three documents pertain to the grandfather and great-grandfather of the petitioner, wherein their caste/Tribe was recorded as '*Thakur*'. Neither the Vigilance Cell nor the Committee has disputed these

documents. However, based on the purported entry in the document dated 18-06-1914, the Committee has rejected the petitioner's claim.

18. To substantiate his claim, the petitioner also produced the Validity Certificate issued in favour of his real cousin brother Gajdatta Chavan. While dealing with the said Validity Certificate, the Committee has committed an error in holding that the Committee has rejected the claim of one Amol Digambar Chavan, Ramesh Chavan, Swamini Chavan and Swagat Chavan and, therefore, the petitioner cannot claim the benefit-based on the Validity Certificate issued in favour of Gajdatta. It is to be noted that the petitioner did not give the names of Amol, Ramesh, Swamini, and Swagat while providing the genealogical information. However, it did not come to record on which basis the Vigilance Cell, as well as the Committee, had observed that they were in blood relation to the petitioner as cousin-cousin-brother. No document has been produced on record in that regard to substantiate their inferences.

19. *Moreover,* neither the Vigilance Cell nor the Committee has offered the invalidation of these four persons to the petitioner nor called upon his explanation. Thus, in our view, the findings given by the Committee for discarding the Validity Certificate issued in favour of

the cousin brother of the petitioner are contrary to the material on record. Therefore, the said finding is not sustainable in the eyes of the law.

20. In the light of the above discussion, it is evident that the petitioner, in support of his claim, has produced four pre-constitutional era documents in relation to his grandfather, great-grandfather and cousin grandfather wherein their caste has been recorded as '*Thakur*'. The oldest entry is dated 01-03-1909, pertaining to his cousin-grandfather Govinda Amruta, wherein his caste has been recorded as "*Thakur*". It is a settled position of law that the pre-constitutional era document has greater probative value than the subsequent documents. The said entry, being the oldest one, has more probative value and, therefore, as per the settled legal position, it would be appropriate to rely on the said oldest entry.

21. Apart from the above, in view of the dictum laid down in the case of *Apoorva Vinay Nichale* (supra), the petitioner is entitled to get the Validity Certificate. However, as discussed above, the Vigilance Cell, as well as the Committee, has erred in discarding the oldest document dated 01-03-1909 and Validity Certificate issued in favour of the real cousin brother of the petitioner and thereby erred in rejecting the claim of the petitioner.

22. In the aforesaid background, in our opinion, the petitioner has discharged the burden cast on him under Section 8 of the Act of 2000. He demonstrated that he belongs to the '*Thakur*' Scheduled Tribe. However, the Committee has erred in rejecting the Tribe's claim of the petitioner.

23. That being so, in our opinion, the order passed by the Committee is not sustainable in the eyes of the law and is liable to be quashed and set aside. As such, we deem it appropriate to pass the following order.

- (i) The impugned order dated 13-06-2024 passed by the respondent Committee is hereby quashed and set aside.
- (ii) It is declared that the petitioner belongs to the "*Thakur*" Scheduled Tribe.
- (iii) The respondent committee is directed to issue the Validity Certificate in favour of the petitioner within 'four weeks' from the date of production of a copy of this judgment before it.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)