



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

942 WRIT PETITION NO. 1599 OF 2015

Shri Mahendra S/o Narendra Wankhede
Age : 26 years, Occ : Service as Constable,
R/o Plot No. 29/B, Rajendra Nagar,
Nalva Road, Nandurbar,
Dist. Nandurbar.

..PETITIONER

-VERSUS-

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai - 32
Through its Secretary
2. The Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar Division,
Nandurbar
Through its Member Secretary
3. The Deputy Collector,
Dhule.
4. The Commandant,
State Reserve Police Force,
Group No.11, New Mumbai.

..RESPONDENTS

...
Advocate for the Petitioner : Mr. Golegaonkar Anil S.
AGP for Respondent/State : Mr. A.V. Lavte

...
**CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL-JADHAV, JJ.**

DATED : 11th NOVEMBER, 2025.

JUDGMENT (PER NITIN B. SURYAWANSHI, J.) :

. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner challenges the decision of respondent no.2 – Committee dated 18.12.2014, thereby invalidating the Tribe Claim of the petitioner of belonging to "Thakur, Scheduled Tribe".

3. Admitted facts on record are that the petitioner was selected to the post of Armed Police Constable from Scheduled Tribe Reserved Category. His caste certificate was referred to respondent no.2 for verification on 05.09.2007 along with the documents. Petitioner was appointed as Armed Police Constable on 08.10.2007 and he joined on the post on 09.10.2007. Since the claim of the petitioner was not decided, he sought directions to respondent no.2 – Committee to decide the Tribe Claim of the petitioner, by filing Writ Petition No.8339/2011. This Court by order dated 08.11.2011 directed the Committee to decide the claim of the petitioner within six months and granted protection to the services of the petitioner. It was further directed that in case, the Committee decides against the petitioner, the said order shall not be given effect to for period of four weeks from the

date of communication of the said order to the Petitioner.

4. Before the Committee, the petitioner has relied on number of documents. Some of them are in respect of his blood relatives and cousin uncles and second cousins of the pre-constitutional period. The Committee by the impugned order has invalidated the Tribe Claim of the petitioner. Hence, the present petition.

5. Heard learned Advocate for the petitioner and learned A.G.P. for the State. Perused the record made available by the learned A.G.P.

6. There are subsequent developments in the matter as after the invalidation of Tribe Claim of the petitioner, the Committee has validated the Tribe Claim of the petitioner's father and real brothers Rakesh and Bhupendra. So also this Court in Writ Petition No.13827/2021 and 13831/2021 has validated the Tribe Claims of cousin uncle of petitioner namely Digambar S/o Ramdas Thakur and his daughter Monika D/o Digambar Thakur, vide order dated 06.12.2024.

7. It appears that the blood relatives of the petitioner have

relied upon the same documents, which were relied upon by the petitioner.

8. Perusal of the impugned order of the Committee shows that Tribe Claim of the petitioner is rejected mainly on the ground that all the documents produced by the petitioner in support of his Tribe Claim show that caste of the petitioner and his relatives is shown only as "Thakur" and there is not a single entry, which shows that petitioner or his relatives belong to Thakur, Scheduled Tribe. Another reason assigned by the Committee is that in view of the area restrictions and as the petitioner failed in the affinity test, the Committee invalidated Tribe Claim of the petitioner.

9. In *Kumari Madhuri Patil and another Vs. Additional Commissioner Tribal Development and others, 1994(6) SCC 241*, it is held that the documents of pre-constitutional period showing the caste of applicant/petitioner and their ancestors have got highest probative value. In the present case, pre-constitutional period documents showing the caste of the blood relatives of the petitioner as "Thakur" are available on record.

10. In *Anand Vs. Committee for Scrutiny and Verification of*

Tribe Claims and others, (2012) 1 SCC 113 also primacy was given to the documents of pre-independence era. In **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and others in Civil Appeal No.2502/2022** also reiterates that the tribe claim of a petitioner should not be rejected on the sole ground that the petitioner failed in affinity test.

11. While allowing the petitions of Digambar and Monika, this Court has made following observations :-

"30. The decision in the case of Anand in paragraphs 4 and 5 specifically refers to Rule 11 and 12 (2) of the ST Rules. In paragraph 22, this Court held thus:

"22. It is manifest from the aforeextracted paragraph that the genuineness of a caste claim has to be considered not only on a thorough examination of the documents submitted in support of the claim but also on the affinity test, which would include the anthropological and ethnological traits, etc., of the applicant. However, it is neither feasible nor desirable to lay down an absolute rule, which could be applied mechanically to examine a caste claim. Nevertheless, we feel that the following broad parameters could be kept in view while dealing with a caste claim:

(i) While dealing with documentary evidence, greater

reliance may be placed on pre-Independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. In case the applicant is the first generation ever to attend school, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim. In fact, the mere fact that he is the first generation ever to attend school, some benefit of doubt in favour of the applicant may be given. Needless to add that in the event of a doubt on the credibility of a document, its veracity has to be tested on the basis of oral evidence, for which an opportunity has to be afforded to the applicant;

(ii) While applying the affinity test, which focuses on the ethnological connections with the Scheduled Tribe, a cautious approach has to be adopted. A few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. Hence, the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Nevertheless, the claim by an applicant that he is a part of a Scheduled Tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded on the ground that his present traits do

not match his tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, etc. Thus, the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim."

(emphasis added)

We have recorded similar reasons earlier for coming to the conclusion that affinity test will not always be mandatory and/or conclusive."

12. In the light of above observations and in view of the fact that the validity certificates issued in favour of father and two real brothers of the petitioner, the impugned order cannot be sustained and petition deserves to be allowed. Hence the following order :-

ORDER

- (i) Writ Petition is allowed.
- (ii) The impugned order is hereby quashed and set aside.
- (iii) The Committee is directed to issue validity certificate to the petitioner within four weeks from the date of uploading of the order.

13. Rule is made absolute accordingly.

(VAISHALI PATIL-JADHAV,J.)

(NITIN B. SURYAWANSHI,J.)