



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1653 OF 2008

Vijay S/o Hari Suryawanshi
Age : 25 years, Occ : Service,
R/o village Pimpalgaon,
Tq. Malegaon, Dist. Jalgaon.

... PETITIONER

...VERSUS...

1. The State of Maharashtra
Through the Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste
Certificate Veritification Committee,
Nashik Division, Nashik
Through its Director
3. The Chief Executive Officer,
Zilla Parishad, Nasik.
4. The Sub Divisional Officer,
Office of SDO, Pachora,
Tq. Pachora, Dist. Jalgaon.

... RESPONDENTS

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- Mr. A.S. Golegaonkar a/w Manish L. Paithane, Advocates for Petitioner
 - Mr. A.V. Lavte, AGP for respondent nos.1, 2 and 4.
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CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL – JADHAV, JJ.

RESERVED ON : DECEMBER 03, 2025

PRONOUNCED ON : DECEMBER 10, 2025

J U D G M E N T [Per Vaishali Patil – Jadhav, J.] :

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

2. This petition filed under Article 226 of the Constitution of India is directed against the order dated 18.01.2008 passed by the Respondent No.2 – Committee, invalidating the Tribe Claim of the petitioner of "Thakur, Scheduled Tribe".

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

4. While rejecting the claim of the petitioner, the Committee has observed that entry “Thakur” by itself does not establish that petitioner belongs to “Thakur, Scheduled Tribe” as the said caste is also found amongst certain upper caste such as Kshatriya, Rajput, Sindhi, Maratha and Bramhins. The Committee has further observed that as there is also forward caste as “Thakur”, hence instead of only relying on the documents submitted by the petitioner has also discussed about the area restriction and observed that the petitioner is ordinary resident of Pimpalgaon Hareshwar, Tq. Pachore, Dist. Jalgaon, which is not scheduled for the Thakur, Scheduled Tribe Community prior to removal of area restriction and the petitioner simply wants to take benefit of similarity of nomenclature of his caste as Thakur.

5. This finding recorded by the Committee is baseless, unwarranted and uncalled for. In ***Baburao S/o Rajaram Shinde Vs. State of Maharashtra and others***, 2002(4) Mh.L.J. 310, this Court has observed thus :-

“32. The Scrutiny Committee has limited role to investigate whether the claimant before it belongs to “Thakur or Thakar” caste and on that basis it may take steps as are mandated by law laid down by the Supreme Court in *Kum. Madhuri Patil's case*, AIR 1995 SC 94. On adjudication if the Committee records a finding in the affirmative, it has to certify that the claimant belongs to the Scheduled Tribe and it cannot venture into any further inquiry into such a claim. In the case at hand, the Committee recorded a finding that the petitioner had claimed to belong to Thakar Scheduled Tribe and the claim was subjected to verification by the Committee which recorded a finding on adjudication of this claim that the petitioner belonged to “Hindu Thakar” caste which falls in the Other Backward Classes. The petitioner has challenged this finding on the ground that once he was found to be belonging to the “Thakar caste” it was incompetent for the Committee to give any further declaration regarding his social status and to hold that the claimant belonged to “Hindu Thakar” caste-a non-tribal group. If the Committee was satisfied that the claimant did not belong to Thakar caste, it had the powers to give a declaration accordingly. It certainly did not have the powers to give a further declaration and that too contrary to the petitioner's claim that he belonged to Hindu Thakar caste.

These submissions have considerable force and we agree that once the Committee recorded a finding that the claimant belongs to Thakar caste it had no jurisdiction to give any further declaration and the only course available to it in such cases was to validate the claimant's, social status as belonging to the Scheduled Tribe (entry no. 44). It is for these reasons that the impugned order is contrary to law and the Scrutiny Committee has fallen in serious error in denying the petitioner's Scheduled Tribe claim. The said order is, therefore, unsustainable and it requires to be quashed and set-aside."

In the light of the above observations, the said finding recorded by the Committee is unsustainable and is liable to be quashed and set aside.

6. In support of his tribe claim, the petitioner has relied on school leaving certificate of the petitioner's father, Hari Shankar Thakur and uncle, Narayan Shankar Thakur wherein admission date is mentioned as 05.03.1952 and 21.06.1943 respectively and caste is mentioned as "Thakur". There are no contra entries.

The pre-constitutional record has greater probative value is settled position of law as per the judgment of the Apex Court in the case of *Ku. Madhuri Patil and another Vs. Addl. Commissioner, Tribal Development and Others, AIR 1995 SC 94* and *Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Others, (2012)1 SCC 113*.

The Committee has, therefore, erred in ignoring pre-constitutional documents, which substantiate the claim of the petitioner.

7. The Committee has rejected the claim of the petitioner on the count that the petitioner has failed in the affinity test ignoring the vigilance cell's report that petitioner's father Hari Shankar Thakur succeeded in affinity test. In view of the decisions in *Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and others (supra)* and *Mah. Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and others*, 2023 SCC OnLine SC 326, it is now well settled that affinity test is not conclusive either way and it is not a litmus test. Therefore, this ground is also not sustainable in the present case.

8. In view of the above, the decision of the committee is contrary to the dictum of this Court and Supreme Court, hence is liable to be quashed and set aside.

9. In the result, we pass the following order :-

ORDER :-

- (i) Writ Petition is allowed.
- (ii) The order dated 18.01.2008 passed by Respondent No.2 – Committee is hereby quashed and set aside.

- (iii) The Respondent - Committee is directed to forthwith issue validity certificate in favour of the petitioner as belonging to 'Thakur, Scheduled Tribe'.
- (iv) The petitioner is entitled for consequential service benefits admissible to him.
- (iv) Rule is made absolute in the above terms.
- (v) No order as to costs.

[VAISHALI PATIL – JADHAV, J.]

[NITIN B. SURYAWANSHI, J.]