



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1632 OF 2014

Kishor Prabhakar Bawaskar,
Age : 46 years, Occ. : Service,
R/o Pandurangnath Nagar,
Plot No. 11, Behind Pooja Complex,
Bhusawal, Tq. Bhusawal,
Dist. Jalgaon.

... PETITIONER

...VERSUS...

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Deptt.,
Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar
Region, Nandurbar.
3. The Superintending Engineer,
Maharashtra State Electricity
Board (Now Maharashtra State
Electricity Distribution
Company Limited), Jalgaon,
Dist. Jalgaon.

... RESPONDENTS

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- Mr. S. R. Barlinge, Advocate for Petitioner
 - Ms. V. S. Chaudhari, AGP for State
 - Mr. A. R. Salve, Advocate for Respondent No. 3
-

WITH
CIVIL APPLICATION NO. 13126 OF 2024

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

RESERVED ON : NOVEMBER 24, 2025

PRONOUNCED ON : NOVEMBER 28, 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 the parties.

2. This petition filed under Article 226 of the Constitution of India, challenges the order passed by respondent No. 2 – Scrutiny Committee dated 30.12.2013 thereby invalidating the tribe claim of the petitioner of ‘Thakur, Scheduled Tribe’.

3. Heard learned advocate for the petitioner and learned AGP for State. Perused the original record made available by learned AGP.

4. In support of his claim, the petitioner relied upon following documents : (i) School Leaving Certificates of his real brothers, real sister and father dated 08.06.1981, 02.06.1986, 01.06.1982, 09.06.1979 and 24.07.1953 respectively. (ii) Birth & Death extracts of his real brother, grandfather dated 14.08.1975 and 20.08.1981 respectively. (iii) Caste Certificates of his real brothers, father dated 06.03.2000, 02.09.1982 and 15.09.1982 respectively, wherein the caste is mentioned as ‘Thakur’. The oldest entry is of his father’s school leaving certificate of the year 1953, wherein caste is mentioned as ‘Thakur’.

5. The Committee rejected the claim of the petitioner mainly on the ground that the entry 'Thakur' by itself does not establish that the petitioner belongs to the 'Thakur', Scheduled Tribe, as the said caste is also found amongst certain upper castes. The Committee further observed that the petitioner's father was admitted to school in the year 1953, and during that period, persons belonging to the 'Thakur' community were generally backward and lacked educational advancement even in the post-constitutional period. This presumption drawn by the Committee is baseless, unwarranted and uncalled for. In **Baburao s/o Rajaram Shinde Vs. State of Maharashtra and others**¹, this Court has observed :

"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

¹ 2002(4) Mh.L.J. 310
komal kamble

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 finding recorded by the Committee is unsustainable and is liable to be quashed and set aside.

6. It is settled position of law that old documents have more probative value. Still, the Committee has erroneously rejected the oldest entry of 'Thakur' caste of father of the petitioner of the year 1953 without any justifiable reason, particularly when there is no contra entry on record.

7. The other ground on which the Committee has rejected the petitioner's claim is that the petitioner has failed to prove the affinity test. The Committee refused to rely on the validity certificate issued to second cousin uncle, Shri Chandrashekhhar Ramchandra Bawaskar by

giving reason that it is not issued on the basis of merits or by way of conducting socio-cultural affinity test. In view of the decisions in **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Others**² and **Mah. Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and Ors.**³, it is now well settled that affinity test is not conclusive either way and it is not a litmus test.

8. Another ground on which the Committee has rejected claim of the petitioner is of area restriction. The Committee erroneously observed that petitioner's family was originally resident of Bhusawal and his relatives are traditionally residing in Dhule, Jalgaon, Chalisgaon and other such places, which were never scheduled for 'Thakur, Scheduled Tribe'.

9. By the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 (Act No. 108 of 1976) published in the Gazette on 20.09.1976, the area restriction of Scheduled Tribes in the State of Maharashtra for the Thakur community has been removed. In **Jaywant Dilip Pawar Vs. State of Maharashtra & Ors.**⁴, it has been held that the Committee cannot negate the claim on the ground that the relatives of the claimant were not residents of the areas mentioned in the Presidential Order, 1956.

² (2012) 1 SCC 113

³ 2023 SCC OnLine SC 326

⁴ 2018(5) ALL MR 975

10. By way of Civil Application No. 13126 of 2024, the petitioner has produced validity certificate of Parth Ravindra Bawaskar issued by Scheduled Tribe Certificate Scrutiny Committee, Dhule, Division Nashik, dated 07.06.2024 of 'Thakur, Scheduled Tribe' and also, the affidavit of Ravindra Prabhakar Bawaskar, stating that his son Parth got validity of caste 'Thakur, Scheduled Tribe' and that present petitioner i.e. Kishor Prabhakar Bawaskar is his brother and Parth is nephew of Kishor i.e. petitioner.

Learned AGP has also produced the copy of the order of Committee passed while validating the claim of Parth Ravindra Bawaskar of 'Thakur, Scheduled Tribe'. The Committee has validated Parth's claim by holding that the pre-constitutional entries have more probative value and affinity test is not conclusive proof and area restriction is removed.

11. It is not disputed that validity certificates are issued in favour of the blood relatives of the petitioner namely Chandrashekhar Ramchandra Bawaskar and Parth Ravindra Bawaskar. In view of the validity of tribe claim of the blood relatives of the petitioner, the petitioner is entitled for the same benefit of validity.

12. For the above reasons, the impugned decision cannot be sustained and the same is liable to be quashed. In the result, the writ

petition is **allowed**. The impugned decision is quashed and set aside. The Committee is directed to issue the validity certificate in favour of the petitioner that he belongs to 'Thakur, Scheduled Tribe' within a period of four weeks from the date of uploading of this order.

13. Rule is made absolute in the above terms.

14. No order as to costs.

15. In view of the above, Respondent No. 3 is directed to release the retiral benefits of the petitioner within twelve weeks from the date of uploading of this order.

16. Civil application, if any, stands disposed of.

[VAISHALI PATIL – JADHAV, J.]

[NITIN B. SURYAWANSHI, J.]