



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1764 OF 2011

1. Sandip Shriram Thakur
Age : 28 years, Occ : Nil,
2. Chandrakant Shriram Thakur
Age : 26 years, Occ : Nil,

Both R/o C/o Onkar Sonu Thakur
Surbhi Nagar, Bhusawal, Tq. Bhusawal,
Dist. Jalgaon.

... PETITIONERS

...VERSUS...

1. Scheduled Tribe Certificate,
Scrutiny Committee, Nandurbar Division,
Nandurbar
Through its Member Secretary
2. Mahatma Phule Krushi Vidyapith
Rahuri,
through its Vice Chancellor (Administration)
Tq. Rahuri, Dist. Ahmednagar.

... RESPONDENTS

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- Mr. Umesh Gite h/f Mr. M.S. Deshmukh, Advocate for Petitioners.
 - Mr. V.P. Dama, AGP for State
 - Mr. Manish N. Navandar, Advocate for Respondent No.2.
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CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL – JADHAV, JJ.

RESERVED ON : DECEMBER 01, 2025

PRONOUNCED ON : DECEMBER 04, 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. The petitioners are challenging the order dated 07.01.2011 passed by Respondent No.1 - Scrutiny Committee, invalidating their tribe claims of “Thakur, Scheduled Tribe”.

3. The Scrutiny Committee rejected the tribe claims of the petitioners on the grounds that only “Thakur” entry alone is not sufficient to decide the tribe claims of the petitioners of belonging to “Thakur, Scheduled Tribe” as the same surname is found in upper caste, the place of residence of the petitioners and their forefathers was not compatible with their claim, and that affinity test was against them. The Scrutiny Committee discarded the order passed by the Caste Scrutiny Committee, Nashik passed on 15.06.2002, validating the “Thakur, Scheduled Tribe” caste claim of the petitioners' brother on the ground that no affinity test was conducted. The relationship is not disputed. The petitioners, therefore pray for quashing the impugned order and issuance of validity certificates.

4. Learned AGP supported the order of Scrutiny Committee. She submitted that while passing the order in favour of the petitioners' brother, it was mentioned in the order that, “the applicant is individually entitled to get benefit of “Thakur, Scheduled Tribe” ”, hence the present petitioners cannot be given benefit of the Nashik Committee's order. The impugned order, therefore needs to be confirmed.

5. We have considered the rival submissions of respective learned Advocates and perused the original record produced by the Scrutiny Committee.

6. The petitioners in support of their claim have produced old documentary evidence in the form of (i) Petitioners' father's school leaving certificate, wherein caste is recorded as "Thakur" and admission date is 07.06.1957, (ii) School leaving certificate of paternal uncle, wherein caste is recorded as "Thakur" and admission date is 05.03.1951, and (iii) School leaving certificate of grand father of year 1928, wherein caste is recorded as "Thakur".

7. The Committee has not recorded any reason while discarding these old entries and has only observed that "Only Thakur entry is not sufficient to decide the Caste claims. In cases where synonymous entries are there i.e. Schedule Tribe synonymous with other old documentary entry of caste has no relevance because the synonymous caste which is not Scheduled Tribe also show the same entry even prior to Presidential Notification."

Admittedly, there are no contra entries. In such situation Committee ought to have validated the claim of the petitioners on the basis of these pre-constitutional and post-constitutional documents when the law is settled that old documents have more probative value as has been held in *Anand Vs. Committee for Scrutiny and Verification*

of Tribe Claims and others, (2012) 1 SCC 113. In the absence of any report of manipulation or suspicion in the entries, there was no reason to overlook them. Clinching evidence produced by the petitioners has been wrongly discarded by the Committee.

8. Affinity test is not a litmus test and has only corroborative value, as has been laid down by the Hon'ble Supreme Court in the matter of *Mah. Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and others*, 2023 SCC OnLine SC 326 and *Anand (supra)*, when there is clinching material on record indicating caste “Thakur”, the Committee over emphasized the affinity test and committed error of jurisdiction.

9. Another ground on which the Committee has rejected claim of the petitioners is of area restriction. The Committee erroneously observed that petitioners' 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”.

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 has been removed. In *Jaywant Dilip Pawar Vs. State of Maharashtra & Ors.*, 2018(5) ALL MR 975, 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.

10. The petitioners have placed on record before the Scrutiny Committee documentary evidence in the form of order passed by Nashik Committee validating the claim of petitioners' real brother Pravin Shriram Thakur by order dated 15/06/2002 only on the ground that no affinity test was carried, but in petitioners' case Vigilance Cell report is called and no contra entry/evidence is found and affinity test is also conducted.

The decision of the Scrutiny Committee appears to be inconsistent with the observations made in the matter of ***Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others***, 2010(6) Mh. L.J. 401, wherein this Court has observed that :-

"7. We thus come to the conclusion that when during the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the committee may grant such certificate without calling for Vigilance Cell Report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it.

8.

9. *In the present case, we find that the committee has disbelieved the petitioner's case that she belongs to Kanjar Bhat after calling the school leaving certificate of petitioner's father and noticing that the original caste written on it was 'Thakur' and that was subsequently changed to Kanjar Bhat. The committee observed that the caste has been changed without complying with the procedure prescribed by Section 48(e) and 132(3) of Mumbai Primary Education Act. In fact, the caste has been changed on the basis of the affidavit. From the findings of the committee it appears that the committee has observed that the change of caste has been done illegally. Obviously, the committee which decided the caste claim of the petitioner's sister did not hold the same view, otherwise it would have refused to grant validity. In the circumstances, we are of the view that the committee which has expressed a doubt about the validity of caste claim of the petitioner and has described it as a mistake in its order, ought not to have arrived at a different conclusion. The matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment, and therefore where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to*

refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order. In this view of the matter, we are of the view that the petition must succeed. Rule is made absolute in above terms. The Caste Scrutiny Committee is directed to furnish the caste validity certificate to the petitioner."

In the light of the above observations, the Committee ought to have granted validity to the petitioner when there is order of Nashik Committee validating the caste claim of blood relative i.e. real brother of petitioner.

11. For the above reasons, the impugned decision cannot be sustained and the same is liable to be quashed. Hence, we pass the following order :-

ORDER

- (i) The Writ Petition is allowed.
 - (ii) The impugned order dated 07.01.2011 passed by Respondent No.1 - Scrutiny Committee is hereby quashed and set aside.
 - (iii) The Committee is directed to issue the validity certificates in favour of the petitioners that they belong to 'Thakur, Scheduled Tribe' within a period of four weeks from the date of uploading of this order.
 - (iv) The petitioners are entitled for consequential service benefits admissible to them.
12. Rule is made absolute in the above terms.
13. No order as to costs.

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

[VAISHALI PATIL – JADHAV, J.]

[NITIN B. SURYAWANSHI, J.]