



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

21 WRIT PETITION NO. 6734 OF 2012

Vijay S/o Purushottam Thakur,
Age : 26 years, Occu: Service, Shikshan Sevak,
R/o. Nagar Devala, Tq. Pachora,
Dist. Jalgaon.

....Petitioner

VERSUS

1. The State Of Maharashtra
Through Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar,
Division Nandurbar, through it's
Member Secretary and Dy. Director (Research)
3. The Chief Executive Officer,
Zilla Parishad, Jalgaon.

.....Respondents

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Mr. Sushant C. Yeramwar - Advocate for the Petitioner
Mrs. P. J. Bharad - AGP for State
Mr. S. R. Dheple – Advocate for Respondent No. 3

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**CORAM : R. G. AVACHAT
AND
NEERAJ P DHOTE, JJ.**

DATED : 14TH JULY, 2025

ORAL ORDER [Per Neeraj P. Dhote, J.] : -

1. By this Petition under Article 226 of the Constitution of India, the Petitioner has challenged the order dated 05.03.2012 passed by Respondent No. 2 – Scrutiny Committee, invalidating the Petitioner's claim of belonging to 'Thakur' Scheduled Tribe.

2. It is submitted by the learned Advocate for the Petitioner that the Petitioner was in service and claims to be belonging to 'Thakur' Scheduled Tribe. The Petitioner's claim was referred to Respondent No. 2 – Scrutiny Committee. The Vigilance Cell Inquiry was conducted by Respondent No. 2 – Scrutiny Committee. Respondent No. 2 – Scrutiny Committee has invalidated the Tribe Claim of the Petitioner on the grounds which are unsustainable in law. He submits that the Tribe Claim has been rejected on the three [3] grounds i.e. Thakur are also found in upper caste, there is no evidence of migration of the Petitioner's family, and the Petitioner has failed to prove the affinity towards 'Thakur' Scheduled Tribe. He submits that, admittedly, there is nothing in the impugned order that, there was any interpolation in the entries. He submits that the entries which are of pre-constitutional era have been discarded by Respondent No. 2 - Scrutiny Committee. He submits that, in identical matter, wherein the Tribe Claim for 'Thakur' Scheduled Tribe was invalidated by the Committee on similar grounds, was considered by this Court in Writ Petition No. 9283 of 2012, and vide Judgment dated 11.03.2025, in the light of the Judgment of the Hon'ble Supreme Court of India in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.*, 2023 SCC Online SC 326, and allowed the said Writ Petition by setting aside the order of the Scrutiny Committee. He submits that the Petition be allowed and the impugned order be set aside.

3. The Petition is opposed by the learned AGP for the State. She submits that Respondent No. 2 – Scrutiny Committee has rightly observed that since Thakur are also found in upper caste, the affinity test was necessary as contemplated in the Judgment in *Kumari Madhuri Patil and Ors. Vs. Addl. Commissioner, Tribal Development and Ors., AIR 1995 SC 94*. She submits that, the Petitioner failed to show the proof of migration from one area to another. She submits that, though the Vigilance Cell Report is in favour of the Petitioner, the Research Officer has observed that the Vigilance Officer has no jurisdiction to record their opinion that the traits and customs match with the ‘Thakur’ Scheduled Tribe. She submits that the Petition be dismissed.

4. We have perused the impugned order. The documents which were submitted by the Petitioner in support of his Tribe Claim of belonging to ‘Thakur’ Scheduled Tribe, comprise of documents of pre-constitutional era, which were as under:-

“5. Xerox copy of School Leaving Certificate of the applicant’s grandfather viz. Vitthal Govind Thakur dated 06.07.1999, wherein caste is recorded as Thakur on 17.06.1922.

18. Xerox copy of an extract of Gaon Namuna No. 14 in respect of the applicant’s grandfather viz. Vithoba Govinda issued by the Tahasildar Pachora, wherein caste is mentioned as Thakur on 03.06.1915.

19. Xerox copy of School Leaving Certificate of the applicant’s grand-uncle viz. Baliram Govinda Thakur dated 18.04.2002, wherein caste is mentioned as Thakur on 03.09.1913.

20. *Xerox copy of School Leaving Certificate of the applicant's grand-uncle viz. Dhondi Govinda Thakur dated 18.04.20022, wherein caste is mentioned as Thakur on 12.05.1919."*

5. There is no dispute that the Vigilance Cell Inquiry was conducted while considering the Petitioner's Tribe Claim and the Vigilance Cell Report supports the Petitioner's Tribe Claim. The Hon'ble Supreme Court of India in the above referred Judgment in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)*, has considered all the relevant aspects in respect of 'Thakur' Scheduled Tribe. It is settled position under the law by way of said Judgment that the affinity test was not a litmus test. The area restriction came to be removed by way of Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. On going through the Judgment of this Court in the above referred Writ Petition No. 9283 of 2012 (supra), it is seen that, it is identical with the case in hand. Considering that the grounds on which Respondent No. 2 – Scrutiny Committee has invalidated the Petitioner's Tribe Claim are clearly unsustainable in the eyes of law and since the entries in the old record, which were of pre-constitutional era have been unjustifiably discarded, the impugned order is liable to be quashed and set aside. Hence, we proceed to pass the following order:

ORDER

- [i] The Writ Petition is allowed.
- [ii] The impugned order is quashed and set aside.

- [iii] Respondent No. 2 – Scrutiny Committee shall issue certificate to the Petitioner of belonging to ‘Thakur’ Scheduled Tribe, within a period of six (6) weeks.

[NEERAJ P. DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE

SG Punde