



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10653 OF 2016

1. Suklal S/o Anand Thakur
Age : 71 years, Occ : Retired,
R/o Shrikrushnapura,
Near Shrikurshna Temple,
Amalner, Tq. Amalner,
Dist. Jalgaon.
2. Rajendra S/o Sukhlal Thakur
Age : 48 years, Occ : Service,
R/o Shrikrushnapura,
Near Shrikurshna Temple,
Amalner, Tq. Amalner,
Dist. Jalgaon
At present, serving at Mumbai
and residing at MRA Police Lines,
A Building, Room No.30,
Paltan Road Police Station,
Mumbai-1.

... PETITIONERS

...VERSUS...

1. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar Region,
Nandurbar
2. The State of Maharashtra
Through the Secretary,
Social Welfare Department,
Mantralaya, Mumbai - 32.
3. Vitthal S/o Chhagan Choudhary
Age : Adult, Occ :
R/o Jamalayachi Wadi,
Behind Sand Bazaar, Surat
4. The Executive Magistrate,
Nashik, Dist. Nashik.
5. The Executive Magistrate,
Amalner, Dist. Jalgaon.

... RESPONDENTS

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- Mr. Amol Joshi h/f Mr. D.R. Deshmukh, Advocate for Petitioners.
 - Mr. A.R. Kale, AGP for respondent/State
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CORAM : **NITIN B. SURYAWANSHI AND
VAISHALI PATIL – JADHAV, JJ.**

RESERVED ON : **DECEMBER 03, 2025**

PRONOUNCED ON : **DECEMBER 10, 2025**

JUDGMENT [Per Vaishali Patil – Jadhav, J.] :

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

2. By this petition filed under Article 226 of the Constitution of India, petitioners are assailing the order dated 25.07.2013 passed by Respondent No.1 - Scrutiny Committee, invalidating their tribe claim of “Thakur, Scheduled Tribe”.

3. The Scrutiny Committee rejected the tribe claim of the petitioners on the ground that only “Thakur” entry in the caste column is not sufficient to decide the tribe claim of the petitioners of belonging to “Thakur, Scheduled Tribe”. If they really would have been Thakur Scheduled Tribe, there would have been entry to that effect. The Scrutiny Committee observed that since the Thakur entry itself is not sufficient to decide the tribe claim of the petitioners, therefore, it has to

be decided on the ground of area restriction and affinity test and petitioners have failed in both.

4. Heard learned Advocate for the petitioners and learned A.G.P. assisted by Law Officer of respondent – Committee. Perused the original record produced by the learned A.G.P.

5. The petitioners' in support of their claim have produced old documentary evidence in the form of petitioner no.1's father's school leaving certificate of 06.08.1931, wherein his caste is mentioned as "Thakur". While discarding this document, the Committee has given reason that the family of the petitioners was well educated even prior to independence and prior to passing of first Scheduled Tribe Order, 1950 and at that time the people who were living in isolated, hilly and remote areas were called as Tribes. These people were backward with no educational background even during post-independent period. This finding of the Committee is based on presumption and the same is unwarranted and uncalled for. The Committee ought to have given due weightage to the pre-constitutional documents relied upon by the petitioners. It is well settled that old and pre-constitutional 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.

Admittedly, there are no contra entries. In the absence of any contra entries, there was no reason to overlook the pre-

constitutional entry. Clinching documentary evidence produced by the petitioners has been wrongly discarded by the Committee.

6. While rejecting the claim of the petitioners, the Committee has observed that the Thakur community was notified to be scheduled tribe from 1956 to 1976 in respect of 25 Tahsils of five districts of Western Maharashtra i.e. Pune, Ahmednagar, Nasik, Thane and Kulaba (now Raigad). The petitioners' family was originally of Amalner, Tq.Amalner, Dist. Jalgaon and it is not their case that they shifted from any of the tahsils, which were notified as Scheduled Tribe area. The petitioners are taking undue advantage of Act No.108 of 1976 and trying to claim as belonging to "Thakur, Scheduled Tribe".

In the decision of *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 family of the petitioner was not resident of the areas mentioned in the Presidential Order, 1956 and hence the same cannot be a ground to reject the petitioner's claim.

7. The Committee has rejected the claim of the petitioners' on the ground that, the petitioners have failed in the 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. The petitioners have placed on record the order passed by the Nashik Scrutiny Committee validating the claim of petitioner no.1's real brother Shri Arun Ananda Thakur by order dated 08.05.2002. Blood relation of the petitioners' with validity holder is not in dispute. Admittedly, the same documents, which were relied by the petitioners, are relied by real brother of petitioner no.1, who is uncle of petitioner no.2, while obtaining the validity certificate.

In view of the judgment of the Division Bench of this Court in the matter of *Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others, 2010(6) Mh.L.J. 401*, the evidence in the form of validity certificate issued to blood relations shall form the basis for issuance of validity certificate to the petitioner unless it is demonstrated that such validity certificates have been obtained by fraud, by these blood relations.

Perusal of the decision of the Committee in petitioner no.1's real brother Arun's case does not show that while securing the validity certificate he has practised any fraud. By ignoring this, the Scrutiny Committee has misdirected itself in invalidating the tribe claim of the petitioners.

9. For the aforesated reasons and as the judgment of the Committee is contrary to the dectum of this Court and the Supreme Court, the impugned decision is unsustainable and the petitioners are entitled for validity certificates. Hence, we pass the following order :-

ORDER

- (i) The Writ Petition is allowed.
 - (ii) The impugned order dated 25.07.2013 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.
10. Rule is made absolute in the above terms.
11. No order as to costs.

[VAISHALI PATIL – JADHAV, J.]

[NITIN B. SURYAWANSHI, J.]