

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

26 WRIT PETITION NO.11422 OF 2010

Tushar Bapu Jadhav

... Petitioner

Versus

The State of Maharashtra and Ors

... Respondents

.....

Shri. Madhur Golegaonkar h/f. Shri. Anil S. Golegaonkar
a/w. Shri. M. L. Paithane & Shri. Sagar Madake,
Advocate for the Petitioner
Ms. P. J. Bharad, AGP for the Respondent / State.

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

Dated : JULY 21, 2025

PER COURT :-

1. Heard both the sides finally with the consent at the stage of admission.

2. The Petitioner was student. He claims to be belonging to 'Thakur' Scheduled Tribe. He was issued Tribe Certificate by the Competent Authority. His claim towards the said Scheduled Tribe was referred to Respondent No. 2 – Scrutiny Committee, which invalidated the same by impugned order dated 24.06.2010. Hence, this Writ Petition under Article - 226 of the Constitution of India.

3. Learned Advocate for the Petitioner submits that though the entry from the pre-constitutional era i.e. of the year 1932, in respect of the Petitioner's Paternal Aunt and School Record of the Petitioner's Father

and Grandfather of the years 1966 and 1952 was available, Respondent No.2 – Committee has discarded the said documents on the ground that there was no document to show that the Petitioner or his relatives belong to ‘Thakur’ Scheduled Tribe. He submits that, the grounds on which Respondent No.2 – Committee has invalidated the Tribe Claim were the affinity test and area restrictions. He submits that, the law is now well settled in the light of the Judgments of the Hon’ble Supreme Court of India in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and Ors.*, 2023 SCC Online 326, *Kumari Madhuri Patil and Ors. Vs. Addl. Commissioner, Tribal Development and Others*, AIR 1995 SC 94, *Anand vs. Committee for Scrutiny and Verification of Tribe Claims and Others*, (2012) 1 SCC 113 and *Palaghat Jila Thandan Samuday Sanrakshan Samiti and Anr. vs. State of Kerala and Anr*, (1994) 1 SCC 359 and the grounds on which the Tribe Claim is invalidated are unsustainable. He submits that this Court in identical fact situation, set aside the order of the Scrutiny Committee in Writ Petition No.9283/2012 decided on 11.03.2025 and in Writ Petition No.7863/2020 decided on 10.07.2025. He submits that the Writ Petition may be allowed.

4. Learned AGP appearing for Respondent Nos.1 to 3 opposes the Petition. She submits that the burden was on the Petitioner to establish his tribe claim, which he failed to establish. She submits that

the Petitioner failed to show affinity towards the said Scheduled Tribe and therefore, Respondent No. 2 – Committee has rightly invalidated his tribe claim.

5. We have gone through the impugned order. It shows that the Petitioner had relied on several documents. Those documents, comprised of the School Admission Register in respect of Petitioner's Father which was dated 20.06.1966, copy of School Leaving Certificate in respect of Petitioner's Paternal Grandfather which was of April 1956 and copy of birth extract of Petitioner's Paternal Aunt which was dated 21.06.1932. Respondent No.2 – Committee had discarded the said documents on the ground that there were no document to describe the Petitioner or his relatives as Scheduled Tribe. The Birth Entry of Petitioner's Paternal Aunt is of pre-constitutional period and as per the settled law the said entry has more probative value. It cannot be ignored lightly. The other grounds i.e. affinity test and area restrictions are not sustainable in the eye of law in the light of the above referred Judgments relied on by learned Advocate for the Petitioner. There is no dispute in respect of the genealogy which the Petitioner had submitted with Respondent No.2 – Committee. Copy of said genealogy is at Page No.94. The Paternal Uncle of the Petitioner by name Umesh Pundalik Jadhav is having the validity towards 'Thakur' Scheduled Tribe which was issued by Respondent No.2 – Committee by following due process.

In the backdrop of these aspects, the Petition deserves to be allowed.

Hence, the following order:

ORDER

- (i) Petition is allowed.
- (ii) The impugned order dated 24.06.2010 passed by Respondent No.2 – Committee is hereby quashed and set aside.
- (iii) Respondent No.2 – Committee shall issue the Tribe Validity Certificate to the Petitioner as belonging to ‘Thakur’ Scheduled Tribe within a period of six (6) weeks from today.
- (iv) Writ Petition stands disposed off accordingly.

(NEERAJ P. DHOTE, J.)

(R. G. AVACHAT, J.)