

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11154 OF 2023

Mahendra Krushna Thakur]
Age 50 years, Occupation Service,]
R/at : Dalvi Niwas, Room No.4,]
Samarth Nagar, Jangal Mangal Road,]
Shivneri Compound, Bhandup West,]
Mumbai – 400 078.] ... Petitioner

Versus

1. The State of Maharashtra]
Through its Principal Secretary,]
Tribal Development Department,]
Mantralaya, Mumbai.]
2. The Schedule Tribe Caste Certificate]
Verification Committee, Konkan Division,]
Thane.]
3. Education Inspector,]
North Division, Mumbai,]
Office at : New Administrative Building]
No.2, 2nd Floor, R.C. Marg, Chembur East,]
Mumbai – 400 071.]
4. Deputy Director of Education,]
Charni Road, Mumbai – 400 004.] ... Respondents

Mr. S. S. Panchpor (Through V.C.) for the Petitioner.
Mr. V. M. Mali, A.G.P for the Respondent-State.

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : 14th November 2025.

ORAL JUDGMENT (Per : M. S. Karnik, J.)

1. Heard learned counsel for the parties.
2. The challenge in this Petition is to an order dated 14th June 2023 passed by the Respondent No.2 – the Scheduled Tribe Caste Certificate Verification Committee, Konkan Division, Thane, invalidating the tribe claim of the Petitioner as belonging to the Thakar, Scheduled Tribe.
3. Learned A.G.P argued in support of the impugned order. It is submitted that the Petitioner has failed to prove the affinity test. It is further submitted that the Petitioner hails from Sindhudurg District and claims to be Thakar from Sindhudurg District. It is therefore, by relying on Entry No.44 of the Scheduled Tribe order, learned A.G.P submitted that the Thakar's of Sindhudurg District cannot claim the benefit of the Scheduled Tribe Caste.
4. We have perused the impugned order. The Scrutiny Committee has

proceeded on the footing that the Petitioner, who hails from Sindhudurg District, has failed to prove the affinity test. Such finding is recorded in para Nos. (vii) & (viii) of the impugned decision. It is pertinent to note that the documents submitted by the Petitioner are duly verified. The school record of the Petitioner's father Krushna Shankar Thakur reveals his date of birth as 12th June 1946 and the entry of his caste as Thakar. Furthermore there are several documents relied upon by the Petitioner, which are pre-constitutional documents. One of the document is a village extract No.14 in respect of his cousin grandfather, namely Keshav Krushna Thakur, which entry is dated 15th June 1922, which records the caste as Thakar. Again a document pertaining to the village extract No.14 in respect of his cousin grandfather, namely, Vasudeo Krushna Thakur, which entry is recorded on 7th December 1918, indicating the caste as Thakar. The village extract No. 14 in respect of the Petitioner's grandfather Shankar Krushna Thakur, which was recorded on 9th October 1915 indicates the caste as Thakar. The genealogy and the authenticity of these documents is not under doubt.

5. Thus there are pre-constitutional documents to demonstrate that the Petitioner belongs to Thakar caste.

6. So far as the contention that the Petitioner is ordinarily resident of Sindhudurg District and therefore not covered by the entry No.44 of the

Scheduled Tribe order, the said view of the Scrutiny Committee is in the teeth of the decision of this Court in *Amol Narayan Wakkar & Another Vs. The State of Maharashtra & Ors.*¹. This Court in para No.21 has clearly observed that the approach of the Members of the Committee solely on the basis that though the Applicants belong to Thakar community, they fall outside entry No.44 of the Scheduled Tribe order is erroneous. It is observed that in view of the decision of the Hon'ble Supreme Court in the case of *State of Maharashtra v. Milind*² and *Palghat Jilla Thandan Samudhaya Samrakshna Samithi and Another Vs. State of Kerala and Another*³, the Committee has no competence or authority to to into the question whether the Petitioners belong to Thakar Nomadic Tribe as has been done in this case. Entry 44 of the Schedule to the Presidential Order notifies Thakars without any area restrictions being Scheduled Tribe within the entire State of Maharashtra.

7. There are pre-constitutional documents of his blood relatives, which clearly demonstrate that the Petitioner belongs to the Thakar community. In this view of the matter, we have no hesitation in observing and as held by this Court in the case of *Palghat Jilla Thandan Samudhaya Samrakshna Samithi and Another (supra)* that the Scheduled

1 (2005) 1 Mah. LJ 798 : (2005) 2 Bom CR 853

2 2001 (1) Mh.L.J. 1 : 2001 (1) SCC 4

3 1994 (1) SCC 359

Tribe order has to be read as it is and applied accordingly without any tinkering whatsoever. Therefore, the Tribe Thakar throughout the State has to be treated as Scheduled Tribe.

8. When it is an admitted position that the Petitioner belongs to the Thakar caste and ordinarily resides in Sindhudurg District, the Scrutiny Committee ought to have validated the Petitioner's caste claim.

9. Hence the following order :

- (a) The Writ Petition is allowed.
- (b) The impugned order dated 14th June 2023 is set aside.
- (c) The Respondent No.2 - Scrutiny Committee is directed to issue Caste Validity Certificate in favour of the Petitioner, as belonging to the Thakar Scheduled Tribe, within a period of eight weeks from the date of communication of this order.
- (d) Needless to mention that in view of the order passed by us, the Respondent No.3 - Education Inspector and the Respondent No.4 – Deputy Director of Education, to immediately release the salary of the Petitioner with all arrears. The arrears to be paid within a period of eight weeks from today.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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