



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 644 OF 2023

Gajanan S/o Narayan Donge,
Aged about 59 years,
Occupation - Service,
R/o. Patwari Colony, Adsana Road,
Shegaon, District Buldhana.

.... **PETITIONER**

// VERSUS //

1) **Schedule Tribe Caste Certificate
Scrutiny Committee,
Amravati Division,** Chaprashipura,
Old by pass, Amravati through
its Vice Chairman/Jt. Commissioner.

2) **Zilla Parishad, Buldhana,**
Through its Chief Executive Officer.

.... **RESPONDENTS**

Mr. S. M. Golhar, Advocate holding for Mr. A. P. Kalmegh,
Advocate for the Petitioner.

Ms. S. S. Jachak, Additional Government Pleader for the
Respondent No.1.

Mrs. M. P. Munshi, Advocate for the Respondent No.2.

**CORAM : MRS. M. S. JAWALKAR AND
RAJ D. WAKODE, JJ.**

DATE ON RESERVING THE JUDGMENT : 23.09.2025

DATE ON PRONOUNCING THE JUDGMENT : 07.10.2025

JUDGMENT : (Per – M. S. JAWALKAR, J.)

1. Heard. **Rule.** Rule is made returnable forthwith. Matter is taken up for final hearing at the stage of admission by consent of the parties and at the request of parties.

2. The Petitioner by this petition is challenging the order dated 30/12/2022, passed by the Respondent No.1 Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati Division, Amravati (for short the “Scrutiny Committee”), thereby invalidating the caste claim of the Petitioner to the “Thakur” Scheduled Tribe enlisted at Sr. No. 44 in the list of Scheduled Tribes in Constitutional (S.T.) Order 1950.

3. The contention of the Petitioner is that on the basis of the Caste Certificate issued to the Petitioner on 21/07/1987 by the Executive Magistrate, Shegaon, the Petitioner was appointed on the post of ‘Peon’ in the Respondent No. 2 - Zilla Parishad, Buldhana vide order dated 12/07/1989 under the Scheduled Tribe Category. Initially, the Tribe Claim of the Petitioner was forwarded for verification to the Respondent No.1 Scrutiny Committee through his employer - Respondent No.2 in the year 2004 and again on the basis of caste certificate issued on

07/07/2007 in new format, the proposal for verification of Tribe Claim was forwarded on 26/07/2013.

4. It is further contended that the Petitioner along with proposal submitted documents related to his father and grandfather, which includes document of prior to 1950 wherein entry in regard to Caste “Thakur” is clearly mentioned. The Petitioner has submitted following documents in support of his Tribe Claim:

Sr. No.	Description of Document	Caste	Date
1	Birth Extract of Pandu Bhonaji Thakur (Grandfather)	Thakur	17.09.1918
2	Birth Extract of Narayan Pandu Thakur (Father)	Thakur	03.03.1965
3	Copy of Service Book of Gajanan Narayan Donge	Thakur	15.08.1964
4	Transfer Certificate of Gajanan Narayan Donge	Thakur	05.07.1971
5	Entry Register of Gajanan Narayan Donge	Thakur	10.07.1970

5. The Petitioner further contended that after inquiry, the Vigilance Cell submitted it's report dated 29/12/2014 to the Respondent No.1 Scrutiny Committee, wherein the Research Officer has raised objection in respect of the affinity of the Petitioner. Thereafter, the Respondent No.1 Scrutiny Committee

invalidated the caste claim of the Petitioner by its order dated 30/12/2022 after a lapse of 8 years. It is further contended that the Respondent No. 1 Scrutiny Committee has invalidated the Tribe Claim of the Petitioner only on the ground of area restriction and wrongly held that the Petitioner failed to prove affinity towards 'Thakur' Schedule Tribe. The said order is challenged under this Petition.

6. The learned Counsel for the Petitioner relied on the following citations :

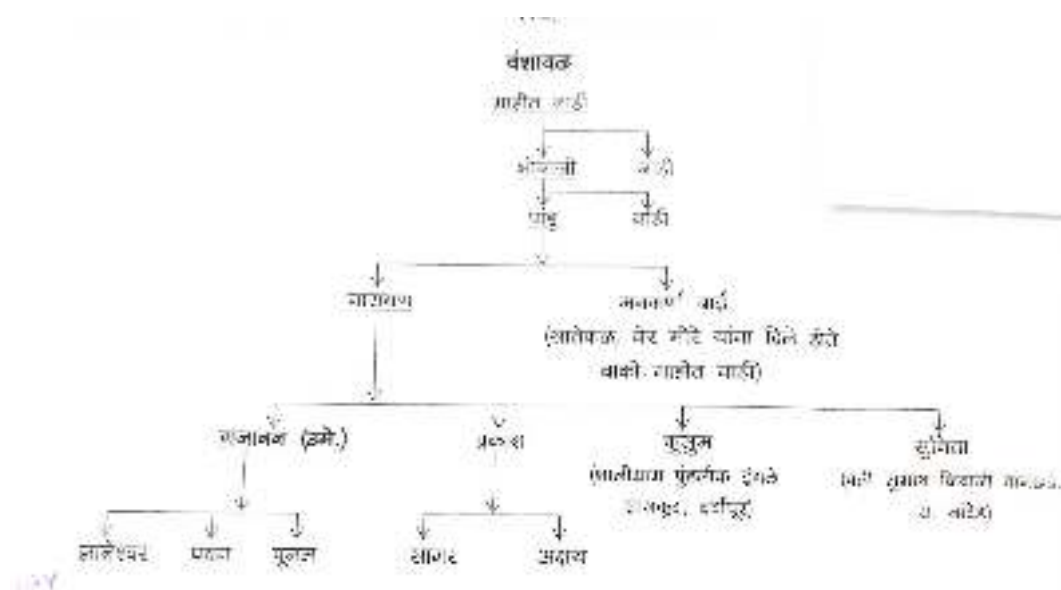
- (i) ***Jaywant Dilip Pawar Vs. State of Maharashtra & Ors.***, reported in ***2018(5) ALL MR 975 (S.C.)*** and
- (ii) ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra & Ors.***, reported in ***2023(2) Mh.L.J. 785.***

7. The learned Assistant Government Pleader submitted that the order passed on 30/12/2022 is well reasoned and there is no interference warranted.

8. Heard both the parties at length. Perused the original record of the Caste Scrutiny Committee with the

assistance of Assistant Government Pleader and considered the citations relied on by the Petitioner.

9. For the sake of convenience the Family Tree is reproduced as under :



10. The Petitioner placed on record as many as 10 documents showing his caste as “Thakur”. The Vigilance Cell procured certain documents in which two documents in respect of Narayan (father) of the year 1936 and Pandu (grandfather) dated 17/09/1918. Both these documents are prior to 1950 as the same were procured by the Vigilance Cell. If the remark column of the Vigilance Cell report is perused, the documents of 1918, 1936, 1965 and 1970 are duly verified by the Vigilance

Officer showing Caste as “Thakur”. The document pertaining to Pandu S/o Bhonaji Thakur, it is submitted by the Vigilance Cell that they conducted an enquiry, there is an entry of Thakur and forefathers of the Petitioner were residing at Bhongaon, Tahsil Shegaon, District Buldhana, however, it is submitted that this place is not within the area declared as Scheduled Tribe. Moreover, it is submitted that the Petitioner has not passed affinity test. There is no adverse entry in all the documents and caste is shown as Thakur which is duly verified by the Vigilance Cell. There is one document pertaining to Narayan Pandu Thakur. The documents is dated 03/03/1965 showing that Narayan Pandu Thakur gave birth to a male child ‘Gajanan’. The Domicile shows the date of birth of Gajanan dated 03/03/1965 and place of birth is shown as Bhongaon. The names of all these persons are appearing in the family tree. It appears that in the whole order passed by the Caste Scrutiny Committee, there are no considerations to the old documents which are duly verified by the Vigilance Cell and caste claim was rejected only on the ground of affinity and area restrictions.

11. It is admitted position that area restrictions have been removed vide order of 1976 therefore, it lost its importance. So far as the affinity test is concerned, it is settled position of law that when there are pre-independence documents showing caste Thakur, in fact, there is no need to conduct the affinity test. Even if it is conducted, there is no standard for affinity test. The Caste Scrutiny Committee rejected the claim of the Petitioner on the basis of irrelevant documents. While deciding the claim of the Petitioner, the Caste Scrutiny Committee ought not to have invalidate the claim on the basis of some general information such as many persons have withdrawn their claim as belonging to Thakur community. There may be persons who have withdrawn their claim as belonging to Thakur, which has no bearing on the claim of the Petitioner. One of the reason for discarding the documents is that there is no entry of scheduled tribe. It is a matter of fact that Thakur tribe has become Thakur Scheduled Tribe after 1950. All these aspects are considered by the Hon'ble Apex Court in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (Supra). The Hon'ble Apex Court in the referred judgment para 25 and 36 held as under :

“25. Now, we come to the controversy regarding the affinity test. In clause (5) of Paragraph 13 of the decision in the case of Kumari Madhuri Patil it is held that in the case of Scheduled Tribes, the Vigilance Cell will submit a report as regards peculiar anthropological and ethnological traits, deities, rituals, customs, mode of marriage, death ceremonies, methods of burial of dead bodies etc. in respect of the particular caste or tribe. Such particulars ascertained by the Vigilance Cell in respect of a particular Scheduled Tribe are very relevant for the conduct of the affinity test. The Vigilance Cell, while conducting an affinity test, verified the knowledge of the applicant about deities of the community, customs, rituals, mode of marriage, death ceremonies etc. in respect of that particular Scheduled Tribe. By its very nature, such an affinity test can never be conclusive. If the applicant has stayed in bigger urban areas along with his family for decades or if his family has stayed in such urban areas for decades, the applicant may not have knowledge of the aforesaid facts. It is true that the Vigilance Cell can also question the parents of the applicant. But in a given case, even the parents may be unaware for the reason that for several years they have been staying in bigger urban areas. On the other hand, a person may not belong to the particular tribe, but he may have a good knowledge about the aforesaid aspects. Therefore, Shri Shekhar Naphade, the learned senior counsel, is right when he submitted that

the affinity test cannot be applied as a litmus test. We may again note here that question of conduct of the affinity test arises only in those cases where the Scrutiny Committee is not satisfied with the material produced by the applicant.

36. Thus, to conclude, we hold that :

(a) Only when the Scrutiny Committee after holding an enquiry is not satisfied with the material produced by the applicant, the case can be referred to Vigilance Cell. While referring the case to Vigilance Cell, the Scrutiny Committee must record brief reasons for coming to the conclusion that it is not satisfied with the material produced by the applicant. Only after a case is referred to the Vigilance Cell for making enquiry, an occasion for the conduct of affinity test will arise.

(b) For the reasons which we have recorded, affinity test cannot be conclusive either way. When an affinity test is conducted by the Vigilance Cell, the result of the test along with all other material on record having probative value will have to be taken into consideration by the Scrutiny Committee for deciding the caste validity claim; and

(c) In short, affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of correctness of a caste or tribe claim in every case.”

12. The learned Counsel for the Petitioner also placed reliance on the Judgment of the Hon'ble Supreme Court in ***Jaywant Dilip Pawar*** (supra) wherein the facts involved is as under :

“1. The short point raised by learned counsel for the appellants in these appeals is that after ‘The Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976’ (Act No. 108 of 1976) was published in the Gazettee on 20.09.1976, the area restriction of Scheduled Tribes in the State of Maharashtra for the Thakur community has been deleted and all members of Thakur, Thakar, Ka Thakur, Ka Thakar, Ma Thakur and Ma Thakar community are treated to be Scheduled Tribes. The Scrutiny Committee has negated the claim of the appellants on the ground that the relatives of the appellants were not residents of the areas mentioned in the Presidential Order, 1956 and further they were not able to give any details of customs and traditions being observed by the said community.

2. In our considered opinion, that is wholly irrelevant. The appellants have only to establish that they belong to community mentioned at Serial No.44 of Part IX of Second Schedule of Act No.108 of 1976.”

13. Thus, we are of the opinion that the Scrutiny Committee has not considered the old documents of 1918, 1936,

1965 and 1970 and not even discussed the same in the order. The claim is rejected only on the ground of affinity test and area restriction. In view of the Judgment in **Jaywant Dilip Pawar** (supra), the appellants have only to establish that they belong to community mentioned at Serial No.44 of Part IX of Second Schedule of Act No.108 of 1976. The Petitioner have duly established that he belongs to Thakur Scheduled Tribe. As such he is entitled for validity certificate as claimed for.

14. Thus, the order passed by the Caste Scrutiny Committee is liable to be set aside being perverse, illegal and erroneous. Accordingly, we pass the following order :

- (i) The Writ Petition is allowed.
- (ii) The impugned order dated 30/12/2022, passed by the Respondent No.1 – Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati in case No. सआ/अजप्रतस/अम/5-ST/2013/13043, is hereby quashed and set aside.
- (iii) It is declared that the Petitioner duly established that he belongs to “Thakur” Scheduled Tribe.

- (iv) The Respondent No.1 – Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is hereby directed to issue validity certificates of “**Thakur**” Scheduled Tribe to the Petitioner – **Gajanan S/o Narayan Donge** within a period of three weeks.

Rule is made absolute in the above terms. No order as to costs.

(RAJ D. WAKODE, J.)

(SMT. M.S. JAWALKAR, J.)

Kirtak