



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

WRIT PETITION NO.4097 OF 2023

Usha D/o Nina Thakur,
@ Pratibha W/o Rajendra Thakur,
Age- 42 years, Occ. Nil,
Presently residing at-
C/o Rajendra Ramesh Rao Thakur,
At & Post- Adawad, Tq. Chopda,
Dist. Jalgaon.

... **Petitioner**

Versus

1. The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai-32,
Through its Secretary.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Amravati Division,
Amravati,
Through its Member Secretary.
(Copies for the Respondent No.1 & 2
to be served on the Government
Pleader, High Court of Judicature of
Bombay, Bench at Nagpur).
3. Kavayitri Bahinabai Choudhari,
North Maharashtra University,
Jalgaon, Tq. & Dist. Jalgaon,
Through its Registrar.
4. Shikshanshastra Mahavidyalaya,
Chopda, Tq. Chopda, Dist. Jalgaon,
Run by- Chopde Shikshan Mandal,
Through its Principal.

... **Respondents**

Shri A.P. Chaware, Counsel for Petitioner.

Shri A.V. Palshikar, Assistant Government Pleader Nos.1 and 2.

None for Respondent Nos.3 and 4, though served.

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

DATE OF RESERVING THE JUDGMENT : 16th SEPTEMBER, 2025

DATE OF PRONOUNCING THE JUDGMENT : 28th NOVEMBER, 2025

JUDGMENT (PER RAJ D. WAKODE, J.) :

1. Heard Shri A.P. Chaware, learned counsel appearing for the petitioner; and Shri A.V. Palshikar, learned Assistant Government Pleader appearing for the respondent Nos.1 and 2.

2. Rule. Rule is made returnable forthwith. Heard finally with the consent of the learned counsel appearing for the parties.

3. The petitioner seeks to challenge the impugned order dated 28th December, 2022 passed by the respondent No.2-the Scheduled Tribe Certificate Scrutiny Committee, Amravati, thereby invalidating the caste claim of the petitioner as belonging to 'Thakur'.

4. The brief facts leading to the filing of the present petition are as follows :

The petitioner is an ordinary resident of Village Dasarkhed, Taluka Malkapur, District Buldana and claims to have belonged to 'Thakur' caste, which is recognized as Scheduled Tribe at Serial No.44 in the Constitution (Scheduled Tribes) Order, 1950. The petitioner has placed on record the caste certificate dated 13th June, 1995 issued by the Executive Magistrate, Malkapur thereby substantially recording

her caste as 'Thakur'. The petitioner was admitted for B.Ed. Course in the respondent No.4-College, being administered by the respondent No.3-University. Thus, the caste claim of the petitioner was submitted to the respondent No.2-Committee on 31st December, 2009 for the purpose of education. The respondent-Committee forwarded the caste claim of the petitioner to the Police Vigilance Cell, which conducted home, school and revenue enquiries and submitted the first Vigilance Cell Report on 12th March, 2012. It is worth to mention here that since the petitioner had submitted further Pre-Constitutional documents to the respondent No.2-Committee, the said documents were again forwarded to the Vigilance Cell and the second Vigilance Cell Report was submitted on 18th May, 2022. The respondent No.2-Committee issued a show cause notice to the petitioner, in response to which the petitioner had filed her explanation on 28th September, 2022. The respondent-Committee after considering the reply of the petitioner and after affording the personal hearing to her, has invalidated the caste claim of the petitioner as belonging to 'Thakur, Scheduled Tribe' vide order dated 28th December, 2022, which is impugned in the present petition.

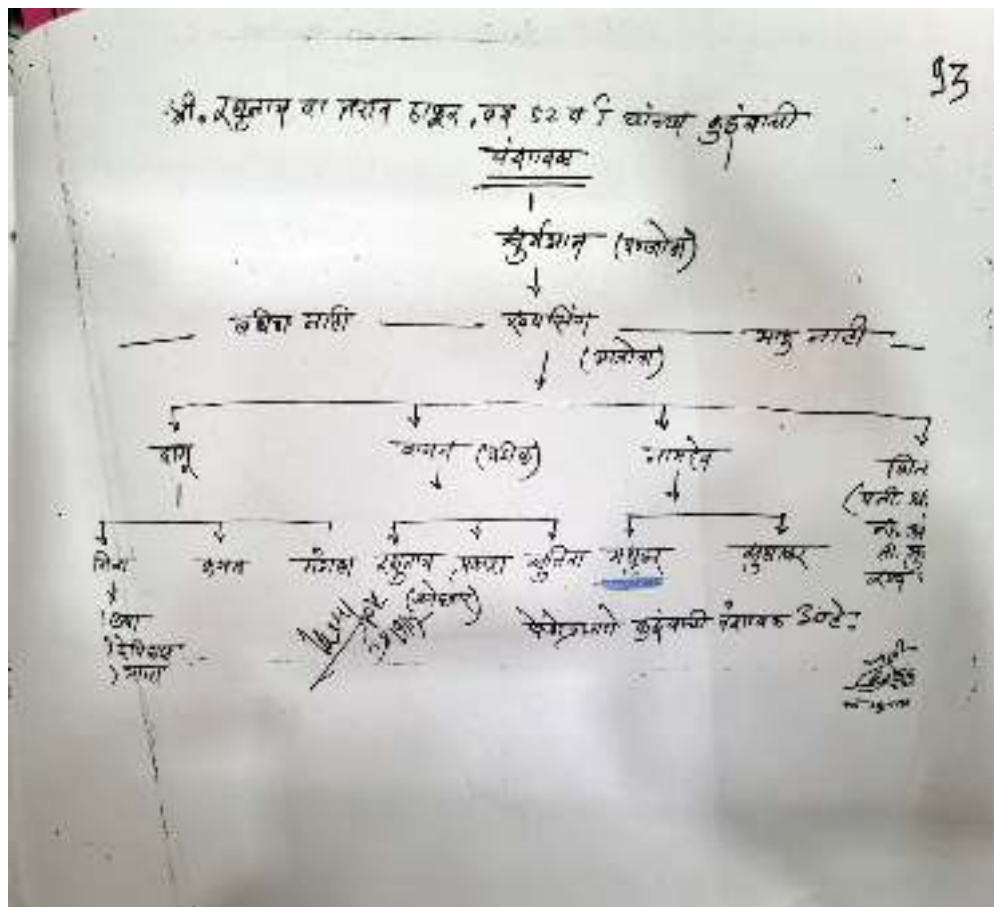
5. Shri A.P. Chaware, learned counsel for the petitioner, has argued that the petitioner in support of her caste claim has placed on record as many as 37 documents, out of which most of them were Pre-Constitutional, wherein the caste was recorded as 'Thakur'. However, the respondent-Committee has ignored the aforesaid

Pre-Constitutional documents having higher degree of probative value, solely on the basis of affinity test and area restriction. Shri Chaware has also pointed out the decision of this Court rendered in Writ Petition No.5226 of 2019 on 26th April, 2024, wherein this Court has granted validity to the paternal relative of the petitioner. In view of this, the learned counsel for the petitioner has argued that the present petition deserves to be allowed in the interest of justice.

6. Shri A.V. Palshikar, learned Assistant Government Pleader appearing for the respondent Nos.1 and 2, has supported the impugned order passed by the respondent No.2-Committee. He has pointed out that even though the entries of caste in the documents submitted by the petitioner are of 'Thakur', there exists high caste or upper caste of 'Thakur' and thus the documents do not speak of one's social status. Thus, in such a case, the affinity test was very important and since the petitioner has failed to prove her affinity test towards 'Thakur, Scheduled Tribe', her caste claim has been invalidated. In view of above, the learned Assistant Government Pleader has insisted that the present petition lacks merit and deserves to be dismissed by this Court.

7. Heard both the learned counsel in detail and perused the documents on record relied upon by the petitioner and verified the same from the original record produced by the respondent No.2-Committee. In our considered opinion, the present is the case wherein the respondent No.2-Committee has erroneously rejected the caste

8. The Police Vigilance Cell of the respondent No.2-Committee, while conducting the Vigilance Cell enquiry, has prepared the genealogical tree of the family of the petitioner, which is on record Page 93, which is reproduced below :



The relationship of the petitioner as per the genealogical tree with her paternal relatives is not disputed by the respondent No.2-Committee. The petitioner has relied upon several documents in support of her caste claim, which are reproduced by the respondent No.2-Committee in Para 2 of the impugned order. The perusal of the aforesaid documents reveals that there are as many as five Pre-Constitutional documents pertaining to the paternal relatives of the petitioner, wherein the caste was recorded as 'Thakur' and the said documents pertain to the period spanning between 1922 and 1934. The aforesaid documents are pertaining to the great grand-father of the petitioner, viz. Rupsing S/o Suryabhan Thakur. The Police Vigilance Cell of the respondent No.2-Committee has verified these documents from their original source and has opined that these documents are genuine. Thus, not a single document produced by the petitioner substantiating her caste claim is found to be forged, fabricated or with interpolated entries. The aforesaid documents are Pre-Constitutional and those are having higher degree of probative value and hence should have been relied upon by the Committee. However, the respondent No.2-Committee in the impugned order has observed that even though the documents produced by the petitioner show the entry of caste as 'Thakur', in the State of Maharashtra, there exists different castes under the nomenclature of 'Thakur'. Every 'Thakur' caste is not a tribe. Apart from 'Thakur' tribe, there exists 'Thakur' in high caste or upper caste and thus the entry of 'Thakur' in

the documents do not speak of the petitioner's social status and hence, the respondent No.2-Committee had relied upon the socio-cultural affinity traits of the petitioner.

9. In our opinion and as settled by the Hon'ble Apex Court, the caste claim of the petitioner has to be primarily decided on the basis of the documentary evidence. The documentary evidence before the cut-off date, i.e. 1950, is having higher degree of probative value and the respondent No.2-Committee is required to consider the aforesaid documents with greater caution. The affinity test, as held by the Hon'ble Apex Court, is not a *litmus* test and is not essential for deciding the caste status of the petitioner. Thus, the respondent No.2-Committee has committed a grave error in ignoring several Pre-Constitutional documents in favour of the petitioner solely on the ground of affinity test, which is against the principles enunciated by the Hon'ble Apex Court, and the impugned order passed by the respondent No.2-Committee deserves to be quashed and set aside on this ground alone.

10. The respondent No.2-Committee has also rejected the caste claim of the petitioner on the basis of area restriction. The issue of area restriction is also no more *res integra* after the judgment of the Hon'ble Apex Court in the case of *Jaywant Dilip Pawar Vs. State of Maharashtra and others*, reported in 2018(5) ALL MR 975 (S.C.), as rightly relied upon by the learned counsel for the petitioner. In the aforesaid judgment, the Hon'ble Apex Court has held that so far the

area restriction of Scheduled Tribes in the State of Maharashtra is concerned, 'Thakur' community was deleted after the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 was published and all the members of 'Thakur' community are to be treated as Scheduled Tribes and hence the applicants are required to establish that they belong to 'Thakur' community mentioned at Serial No.44 of Part IX of Second Schedule of Act No.108 of 1976 of the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. In view of above, rejection of caste claim of the petitioner by the respondent No.2-Committee on the ground of area restriction is also unsustainable in the eyes of law and deserves to be rejected by this Court.

11. The learned counsel for the petitioner has also relied upon the judgment passed by the Co-ordinate Bench of this Court on 26th April, 2024 in Writ Petition No.5226 of 2019 in the case of *Vaishnavi D/o Madhukar Thakur Vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati and another*. Vaishnavi D/o Madhukar Thakur is the paternal relative of the present petitioner, whose caste claim towards 'Thakur' Scheduled Tribe was invalidated by the respondent-Committee, against which she had approached this Court by way of the aforesaid petition. This Court in its detailed judgment, after considering all the Pre-Constitutional documents in the family of the petitioner and considering the issue of rejection only on the basis of affinity test, has allowed the aforesaid petition and has declared

that Vaishnavi D/o Madhukar Thakur belongs to 'Thakur, Scheduled Tribe' and has directed the respondent-Committee to issue validity certificate.

12. The aforesaid position has not been disputed by the learned Assistant Government Pleader appearing for the respondent-Committee. Hence, the issue of validity certificate to a paternal relative of the petitioner and that too by the judgment of this Court also entitles the petitioner for grant of validity certificate as belonging to 'Thakur, Scheduled Tribe' in compliance of the law laid down by this Court in the case of *Apoorva D/o Vinay Nichale Vs. Divisional Caste Scrutiny Committee No.1, Nagpur and others*, reported in *2010(6) Mh.L.J. 401*.

13. In view of the aforesaid reasons, we are of the considered opinion that the petitioner has proved her case claim as belonging to 'Thakur, Scheduled Tribe' and the respondent No.2-Committee has rejected the aforesaid caste claim on completely erroneous grounds and in violation of the aforesaid judgments of the Hon'ble Apex Court and this Court.

14. We accordingly pass the following order :

(i) The writ petition is allowed.

(ii) The impugned order dated 28th December, 2022 passed by the respondent No.2-Scheduled Tribe Certificate Scrutiny Committee, Amravati in Case No.सआ/अजप्रतस/अम/-5-ST /2009/13555, thereby invalidating the caste claim of the

petitioner as belonging to 'Thakur, Scheduled Tribe' is hereby quashed and set aside.

(iii) It is held and declared that the petitioner belongs to 'Thakur, Scheduled Tribe'.

(iv) The respondent No.2-Committee shall issue validity certificate to the petitioner within a period of four weeks from the date of receipt of copy of this judgment.

15. Rule is made absolute in above terms. No costs.

(RAJ D. WAKODE, J.)

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

Lanjewar