



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

**WRIT PETITION NO. 2500 OF 2024**

**PETITIONER** : Ku. Pallavi D/o. Mahadev Ingle, Age :  
21 Years, Occ: Student, R/o. Pilakwadi,  
Tah. Akot, Dist. Akola.

**//VERSUS//**

**RESPONDENTS** : 1. Scheduled Tribe Caste Certificate  
Scrutiny Committee, Amravati  
Division, Old By Pass Road,  
Chaprashipura, Amravati, through its  
Member Secretary.

Amendment as per Court's  
order Dt. 10.12.2024 2. Angel of Mery Institute of Nursing  
Science, Akola, through its Principal,  
Yerenala Road, at Post Kanheri (Sarap),  
Tq. Barshitakli, Dist. Akola.

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Mr. A.P. Kalmegh, Advocate for the Petitioner.  
Mr. J.Y. Ghurde, AGP for Respondent No.1/State.  
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**CORAM : SMT. M.S. JAWALKAR AND**  
**RAJ D. WAKODE, JJ.**

**RESERVED ON : 15<sup>th</sup> SEPTEMBER, 2025.**  
**PRONOUNCED ON : 21<sup>st</sup> NOVEMBER, 2025.**

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

Heard Mr. A.P. Kalmegh, learned counsel appearing for the  
petitioner, and Mr. J.Y. Ghurde, learned Assistant Government Pleader  
for respondent No.1/State.

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

3. The petitioner has approached this Court seeking challenge to the impugned order dated 18.08.2023, passed by the respondent No.1 – Scheduled Tribe Caste Scrutiny Committee, Amravati, thereby invalidating the caste claim of the petitioner towards ‘Thakur’ Scheduled Tribe.

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

The petitioner claims belonging to ‘Thakur’ Scheduled Tribe which is recognised as Scheduled Tribe at Serial No.44 in the Constitution (Scheduled Tribes) Order, 1950. The petitioner has placed on record the caste certificate issued by the Sub-Divisional Officer, Akot in Form-C, substantiating that the petitioner belongs to ‘Thakur’ Scheduled Tribe. The petitioner is a student and it is for the purpose of education that the caste claim of the petitioner was forwarded by the Principal of Sudhakar Rao Naik Arts and Umashankar Khetan Commerce College, Akola on 01.06.2022 to the respondent No.1 – Committee. The communication forwarding the caste claim of the petitioner to the respondent No.1 - Committee is at record page No.23 (Annexure-B).

5. The petitioner had submitted various documents, including the pre-constitutional documents, substantiating her caste claim. The respondent No.1 - Committee forwarded the Tribe Claim of the petitioner to the Police Vigilance Cell. The Police Vigilance Cell conducted detailed home, school and revenue inquiry and submitted

the Vigilance Cell Report on 28.04.2023. The Police Vigilance Cell had procured one contra entry pertaining to the father of the petitioner, wherein the caste was recorded as 'Maratha' on 01.07.1974. The Police Vigilance Cell also opined that the petitioner has failed to prove her affinity towards 'Thakur' Scheduled Tribe. The Police Vigilance Cell Report being adverse to the petitioner, the respondent No.1 – Committee issued a show cause notice to the petitioner on 12.05.2023. The petitioner submitted a revised genealogical tree along with further supporting documents on 23.06.2023. The respondent No.1 – Committee, after hearing the petitioner, has invalidated her caste claim towards 'Thakur' Scheduled Tribe *vide* order dated 18.08.2023, which is impugned before this Court.

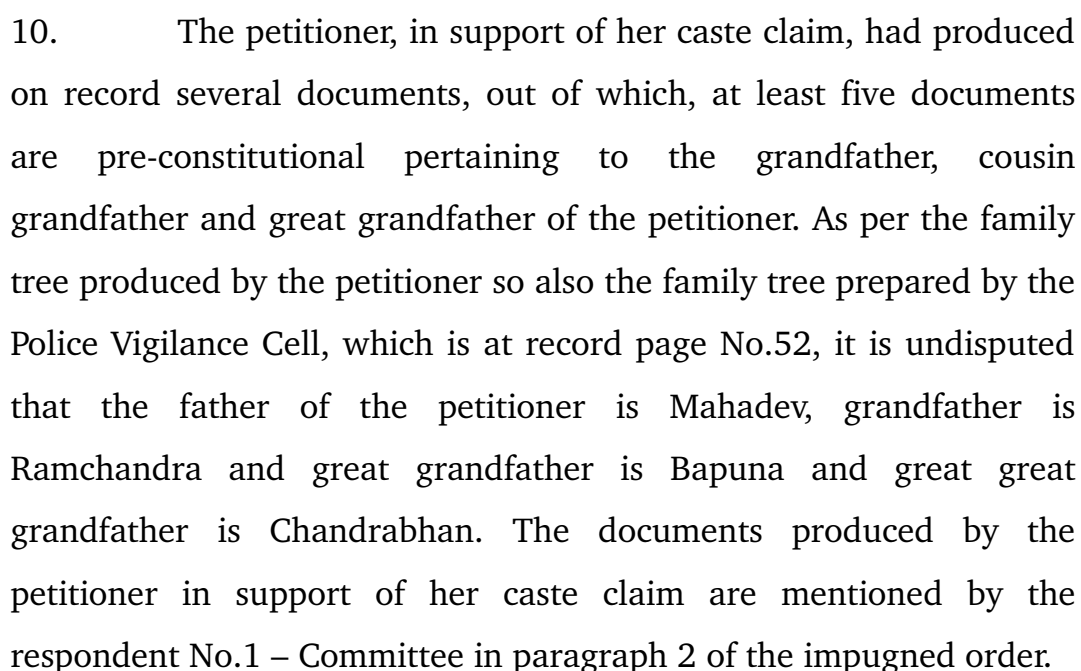
6. Mr. Kalmegh, learned counsel for the petitioner, has vehemently submitted that the petitioner has relied upon inasmuch as five pre-constitutional documents, wherein the caste is recorded as 'Thakur' Scheduled Tribe. However, the respondent No.1 – Committee has rejected all those pre-constitutional documents only on the basis of one contra entry pertaining to the year 1974, which is beyond the cut-off date. Thus, the respondent No.1 – Committee has committed a grave error in law and violated the law settled by the Hon'ble Apex Court in rejecting the pre-constitutional documents having higher probative value relying upon a document which is of the year 1974 and hence the impugned order deserves to be set aside by this Court.

7. Mr. Kalmegh, learned counsel for the petitioner, also argued that the respondent No.1 - Committee was not at all justified in invalidating the caste claim of the petitioner on the ground of the affinity and area restrictions which is against the law settled by the

Hon'ble Apex Court and hence requested to allow the present petition.

8. Mr. Ghurde, learned Assistant Government Pleader appearing for respondent No.1, supported the impugned order passed by the respondent No.1 – Committee. He pointed out the document dated 01.07.1974, wherein the caste is recorded as 'Hindu Maratha' in respect of Mahadev Ramchandra Ingle, who is the father of the petitioner. He argued that 'Marathas' are considered as forward caste akin to Brahmins and therefore are not eligible for Scheduled Tribe reservation, due to which, the caste claim of the petitioner towards Scheduled Tribe has been rightly invalidated by the Caste Scrutiny Committee. He also pointed out the Vigilance Cell Report, wherein the information furnished by the petitioner during the course of vigilance inquiry relating to her customs clearly shows that the petitioner could not prove her socio-cultural activity with the 'Thakur' Scheduled Tribe. He also pointed out that the residence of the petitioner is traced in Akola and hence the caste claim of the petitioner is also hit by the principle of the area restrictions and hence the respondent No.1 has rightly invalidated the caste claim of the petitioner and therefore the present petition deserves to be dismissed by this Court.

9. We have heard both the parties. Perused the record of the Caste Scrutiny Committee produced by the learned Assistant Government Pleader. The documents, which are relied upon by the petitioner, are verified from the record. There is no dispute over the family tree placed on record by the petitioner, so also the family tree prepared by the Police Vigilance Cell. The family tree produced by the petitioner is at record page No.59, which is reproduced below for easy reference:



11. The document at Serial No.6 is a school leaving extract pertaining to the grandfather Ramchandra Bapuna of the petitioner dated 10.07.1946, wherein the caste is recorded as 'Hindu Thakur'. The document at Serial No.7 is a birth extract pointing out a male

child born to Bapuna on 21.07.1918, wherein the caste is recorded as 'Thakur'. The documents at Serial Nos.12 and 13 are the birth extracts of two daughters born to the great grandfather of the petitioner i.e. Bapuna on 28.08.1911 and 04.01.1916. The document at Serial No.14 is a birth extract of a male child born to Kashiram Bapuji, cousin grandfather of the petitioner on 10.11.1945. It is a settled law that pre-constitutional documents carry a higher degree of probative value in establishing caste status as compared to post-Independence documents. However, in the present case, respondent No.1 – Committee has rejected these five pre-constitutional documents by relying upon a single contra entry pertaining to the petitioner's father, Mahadev Ramchandra, wherein his caste is recorded as 'Maratha' in the Dakhil Kharij register on 01.07.1974.

12. Thus, the respondent No.1, in our opinion, has committed a grave error in law and has violated the law settled by the Hon'ble Apex Court in rejecting these five pre-constitutional documents having higher degree of probative value on the basis of one adverse entry pertaining to the year 1974 and hence the impugned order deserves to be set aside by this Court on this ground alone.

13. Mr. Ghurde, learned Assistant Government Pleader, has also pointed out that the respondent No.1 - Committee has invalidated the caste claim of the petitioner as the petitioner had furnished the information during hearing and during the course of vigilance cell inquiry relating to her customs which could not prove her socio-cultural activity with the 'Thakur' Scheduled Tribe.

14. Mr. Kalmegh, learned counsel for the petitioner, has relied upon the judgment of the Hon'ble Apex Court in the case of

***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and Ors. in Civil Appeal No.2502/2022***, wherein the Hon'ble Apex Court held as under:

*“(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.”*

15. Mr. Kalmegh, learned counsel for the petitioner, also relied upon the judgment of the Hon'ble Apex Court in the case of ***Priya Pramod Gajbe Vs. State of Maharashtra and others, 2023 SCC OnLine SC 909***, wherein the Hon'ble Apex Court relied on citation in the case of ***Anand V. Committee for Scrutiny and Verification of Tribe Claims, (2012) 1 SCC 113***, wherein the Hon'ble Apex Court, held in paragraph No.12 as under:

*“22. .... (i) While dealing with documentary evidence, greater reliance may be placed on pre-Independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. In case the applicant is the first generation ever to attend school, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim. In fact, the mere fact that he is the first generation ever to attend school, some benefit of doubt in favour of the applicant may be given. Needless to add that in the event of a doubt on the credibility of a document, its veracity has to be tested on the basis of oral evidence, for which an opportunity has to be afforded to the applicant;*

*(ii) While applying the affinity test, which focuses on the ethnological connections with the Scheduled Tribe, a cautious approach has to be adopted. A few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernization and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. Hence, the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Nevertheless, the claim by an applicant that he is a part of a Scheduled Tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded on the ground that his present traits do not match his tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, etc. Thus, the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim."*

16. In view of the above, the respondent No.1 – Committee has clearly violated the law settled by the Hon'ble Apex Court in rejecting the caste claim of the petitioner on the ground of affinity test and hence the impugned order deserves to be set aside by this Court on this ground also.

17. Lastly, the learned Assistant Government Pleader made an attempt to support the impugned order by contending that the 'Thakur' Scheduled Tribes reside only in the villages and talukas of Thane, Kulaba, Nashik (only in Nashik taluka), Pune, and Ahmednagar Districts only. He pointed out that the ordinary residence of the petitioner is in district Akola and hence the petitioner is not belonging to 'Thakur' Scheduled Tribe. The aforesaid argument of Mr. Ghurde is being recorded only for the purpose of rejecting as the

aforesaid issue is no more *res-integra* in view of the judgment of the Hon'ble Apex Court in the case of ***Jaywant Dilip Pawar Vs. State of Maharashtra and Ors. (2018 (5) All MR 975)*** as relied upon by the learned counsel for the petitioner.

18. The Hon'ble Apex Court in the case of ***Jaywant Dilip Pawar (supra)*** held that, so far as area restriction of scheduled tribe in State of Maharashtra, 'Thakur' community was deleted after Amendment Act, 1976 was published and all members of 'Thakur' community are to be treated as Scheduled Tribe. Court further held that observation of Scrutiny Committee is wholly irrelevant. Applicants only to establish that they belong to community mentioned at Sr. No.44 of part-9 of second Schedule of Amendment Act, 1976.

19. The respondent No.1 – Committee has recorded additional reason in rejecting the document at Serial No.6 pertaining to the grandfather of the petitioner viz. Ramchandra Bapuna, wherein his caste is recorded as 'Hindu Thakur' in school leaving certificate on 10.07.1946. The submission is that the word 'Hindu' is mentioned along with the 'Thakur' and hence the said entry has been considered as a contra entry.

20. Mr. Kalmegh, learned counsel for the petitioner, has relied upon the judgment of this Court in ***Writ Petition No.5577/2023 (Ku. Kiran Ramdas Pawar Vs. The Scheduled Tribe Certificate Scrutiny Committee & Anr., decided on 23.07.2024)***, wherein this Court has dealt with the similar issue and has observed thus:

*“So far as, 'Hindu' mentioned along with 'Thakur' which entry have weighed heavily in the mind of Scrutiny Committee while*

*passing the impugned order. The learned counsel for the petitioner placed reliance on the judgment passed in **Ekta Mahendrasing Thakur** (supra) wherein this Court held that, “the schedule of the Constitution nowhere provides ‘Hindu-Thakur’ as tribe.” It is, therefore, debatable whether this entry can be called as contrary entry. Needless to state that ‘Hindu’ is not a caste but it is a religion. Therefore, the importance is given by the respondent Scrutiny Committee to discard the petitioner’s claim since the word ‘Hindu’ is found in two entries, which is of the year 1975 and one is of the year 1946. This Court in **Ekta Mahendrasing Thakur** (supra) held that, “thus rejection of the petitioner’s claim on the issue of entry such as ‘Hindu Thakur’ is unsustainable in the eye of law”.*

21. In view of the aforesaid judgment of this Court, the finding of the respondent No.1 – Committee is clearly unsustainable in the eyes of law and hence deserves to be rejected by this Court. In our considered opinion, the impugned order dated 18.08.2023 passed by the respondent No.1 – Committee – Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, is clearly unsustainable in the eyes of law and in view of the reasons stated above, and hence the petitioner is entitled for the relief prayed for. The petitioner has duly established her caste claim towards ‘Thakur’ Scheduled Tribe. Accordingly, following order is passed:

### **ORDER**

- (a) The writ petition is **allowed**.
- (b) The impugned order dated 18.08.2023 (Annexure-G) passed by the respondent No.1 – Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati in Case No.

सआ/अजप्रतस/अम/5/501/Edu/052022/205790, is hereby quashed and set aside.

(c) It is declared that the petitioner belongs to 'Thakur' Scheduled Tribe, which is entry No.44 in the Constitution (Scheduled Tribes) Order, 1950.

(d) The respondent No.1 – Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, shall issue validity certificate to the petitioner within a period of four weeks from the date of receipt of order.

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

(RAJ D. WAKODE, J.)

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

Vijaykumar