



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

WRIT PETITION NO. 3812 OF 2022

Abhishek s/o Sanjay Jogdand,
Aged about 17 years, Occ.- Student,
through Natural Guardian
Sanjay Ramchandra Jogdand,
Aged about 50 years, Occ. - Service,
R/o Chhatrapati Chowk, Ansing,
Tahsil – Washim, District – Washim.

.... PETITIONER

VERSUS

The Scheduled Tribe Certificate Scrutiny
Committee, Amravati, Chaprashipura,
Amravati, through its Assistant Commissioner
and Vice-President.

.... RESPONDENT

Mr. R.D. Karode, Counsel for the petitioner,
Mr. J.Y. Ghurde, A.G.P. for the respondent.

CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.

DATE : 25-03-2025

JUDGMENT : (Per : ABHAY J. MANTRI, J.)

Heard. **RULE.** Heard finally with the consent of the learned
Counsel for the parties.

2. The petitioner, aggrieved by the order dated 03-01-2022 passed by
the respondent-Scheduled Tribe Certificate Scrutiny Committee, Amravati
(for short, “*the Committee*”), thereby invalidating the claim of the
petitioner of belonging to ‘*Thakur*’ Scheduled Tribe, has preferred this
petition.

3. The petitioner claims that he belongs to the '*Thakur*' Scheduled Tribe. Accordingly, through the Principal of Dnyansagar Scholar Arts and Science Junior College, Ansing, District Washim, he forwarded a proposal to verify his caste certificate to the Committee. The Committee, being dissatisfied with the documents, referred the same to the Vigilance Cell for inquiry. By Writ Petition No. 4914/2021, he sought direction against the Committee to decide his caste claim at the earliest. By order dated 03-12-2021, this Court directed the Committee to decide the petitioner's claim within six months from receipt of the said order. The Vigilance Cell conducted a thorough inquiry and submitted its report to the Committee on 17-12-2021.

4. During the inquiry, three adverse documents found by the Vigilance Cell pertain to the great-great-grandfather, the cousin great-great-grandfather and the cousin great-grandmother, wherein their caste has been recorded as '*Marathe / Maratha*.' Therefore, the Committee vide show cause notice called upon the petitioner to submit his explanation to the said adverse entries. In response, he submitted an explanation before the Committee, denying the adverse entries. It is categorically contended that those persons are not related to him. After affording an opportunity of hearing, considering the explanation, the Vigilance Cell report and documents on record, the respondent-Committee vide impugned order rejected the claim of the petitioner. Hence, this petition.

5. Mr. R.M. Karode, learned Counsel for the petitioner, has vehemently contended that the petitioner, to substantiate his claim, had produced as many as eight documents before the Committee; out of them, one document is of pre-constitutional era of 1919 pertains to his great-great-grandfather and two documents of 1952 and 1957 pertain to his grandfather wherein their caste has been recorded as '*Thakur*'. However, the Committee has not considered the said oldest document of 1919 and erred in relying on the documents alleged to be discovered during the vigilance inquiry, which had no concern with the petitioner. Therefore, he submitted that the Committee erred in rejecting the petitioner's claim based on the '*Maratha*' entries in the alleged documents, which are contrary to the settled position of law, and urged for allowing the petition.

6. In response, Mr. J.Y. Ghurde, learned Assistant Government Pleader, strenuously argued that during the Vigilance Cell inquiry, three adverse entries were discovered to the Vigilance Cell pertaining to the great-great-grandfather of the petitioner and others. However, the petitioner failed to explain those entries, and based on those entries, the Committee has rightly invalidated the petitioner's claim. He has not disputed the entry of 1919; however, he has contended that the other three documents of 1920, 1932 and 1949 found adverse to the said entry and, therefore, the Committee has rightly discarded the entry of 1919. Thus, he submitted that the petitioner failed to demonstrate that he belongs to the '*Thakur*'

caste, therefore, passing of the order by the Committee is just and proper, and no interference is required in the writ jurisdiction.

7. We have appreciated the submissions of the learned Counsel for the parties and perused the impugned order and record. We have also gone through the original record of the Scrutiny Committee and returned it.

8. At the outset, it is evident that the petitioner, to substantiate his claim, produced eight documents on record; out of them, one document is dated 05-03-1919, which pertains to his great-great-grandfather, wherein his caste had been recorded as '*Thakur*.' In addition, the petitioner has produced documents from 1952 and 1957 pertaining to his grandfather, whose caste was recorded as '*Thakur*.' Neither the Vigilance Cell nor the Committee has disputed those three entries/documents. Therefore, there is no reason to disbelieve those documents. Furthermore, it seems that the document of 1919 is the oldest; thus, based on the said document, only the Committee has to grant the validity in favour of the petitioner. However, ignoring said document, the Committee has given undue importance to the disputed three documents of 1920, 1932 and 1949 pertaining to Kondu Pandu, Bhujana Kondaji, and Deoki Sitaram, which were alleged to be discovered by the Vigilance Cell, and the Committee has discarded the claim of the petitioner.

9. It is pertinent to note that, in the explanation, the petitioner categorically denied his relationship with them. Moreover, in the genealogical tree, their names have not been shown as his family members/ancestors. In such circumstances, it would not be appropriate to consider those documents. The Vigilance Cell or the Committee has not demonstrated how they relate to the petitioner. In such an eventuality, in our opinion, it would not be proper to discard the petitioner's claim based on those disputed documents.

10. The second reason assigned to discard the claim was that the petitioner failed to satisfy the affinity test and the area restriction criteria. Those issues are no longer *res integra*, as in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others, 2023(2) Mh.L.J. 785*, the Hon'ble Apex Court has categorically held that "*the affinity test cannot be termed as litmus test, mainly when the pre-constitutional documents are existing and placed on record and the oldest pre-constitutional document has more probative value than the subsequent document*", besides the area restriction has been removed and, therefore, we do not find substance in rejecting the claim of the petitioner on those grounds.

11. That being so, it was incumbent on the part of the respondent-Committee, while passing the impugned order, not only to accept the document/evidence which was brought on record by the petitioner which

is of the pre-independence era scrolling from 1919 onwards but also to record the finding as to why such documentary evidence was discarded. The reasons furnished for discarding such documentary evidence is not at all appealing to this Court, particularly when the authenticity of such documentary evidence is neither disputed by the Vigilance Cell nor the Committee. Furthermore, such evidence existed prior to that point in time, as in the documents that were discovered by the Vigilance Cell.

12. As such, once it is held that the petitioner has discharged the burden cast upon him under Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, this Court is required to accept the evidence that is brought on record by the petitioner, thereby demonstrating that since 1919 onwards, there exists an entry of '*Thakur*.' Hence, they are justified in claiming entitlement to the status of "*Thakur*."

13. Thus, in our opinion, the Committee has erred in discarding the said documents but given undue importance to the disputed documents of 1920, 1932 and 1949. Based on the said findings, the order cannot be sustained in the eyes of the law. On the contrary, it seems that the case of the petitioner is covered by the dictum laid down in *Maharashtra Adiwasi*

Thakur Jamat Swarakshan Samiti (supra). Hence, it reveals that the findings recorded by the Committee seem to be contrary to the documents on record and the law laid down by the Hon'ble Apex. Court.

14. In the above backdrop, we allow the petition. The impugned order dated 03-01-2022 passed by the Committee is hereby quashed and set aside. It is hereby declared that the petitioner belongs to the '*Thakur*' Scheduled Tribe. The respondent-Committee is directed to issue a Validity Certificate in favour of the petitioner within four weeks from the production of a copy of this judgment.

15. Rule is made absolute in the above-said terms.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

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