



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

WRIT PETITION NO. 5640 OF 2024

Prakash S/o Pundalik Bayaskar,
Aged about 54 years, Occ.- Service,
R/o. Kapsi Road, Akola.
Tah. and Distt. Akola.

.... **PETITIONER**

// **VERSUS** //

The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee,
Chaprasipura, Amravati.

.... **RESPONDENT**

Mrs. Preeti Rane, Advocate for Petitioner.

Mr. A. M. Joshi, Assistant Government Pleader for Respondent.

**CORAM : MRS. M. S. JAWALKAR AND
PRAVIN S. PATIL, JJ.**

DATE : 14th JULY, 2025.

ORAL JUDGMENT :- (Per : M. S. JAWALKAR, J.)

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

3. Present Petition is filed challenging the impugned order dated 28.12.2004, passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati in the matter of Petitioner invaliding the Caste of the Petitioner as he belongs to “Thakur” Scheduled Tribe.

4. There is a Certificate of Validity in respect of one Pratik Prakash Bayaskar, who is nephew of the Petitioner. It appears that Pratik was awarded a Validity Certificate in pursuant to the order passed by this Court in ***Writ Petition No.1206/2024***, dated 16.08.2024. In the said matter, various old documents were considered. On the basis of documents pertaining to pre-constitutional era, wherein caste of the forefathers of the Pratik mentioned as “Thakur” was considered and allowed the Petition. In the present matter, there is no dispute over the genealogy. Even there are no contradictory entries. This fact is clearly observed by the Caste Scrutiny Committee in para 15-D (page 50) of the impugned order. However, only on the basis of affinity and area restrictions, the claim of the Petitioner came to be denied.

5. The learned Counsel for the Petitioner relied on ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra & Ors.***, reported in **2023(2) Mh.L.J. 785**, wherein in para 20 the Hon'ble Apex Court held as under :

“20. It is not possible to exhaustively lay down in which cases the Scrutiny Committee must refer the case to Vigilance Cell. One of the tests is as laid down in the case of Kumari Madhuri Patil Vs. Addl. Commissioner, Tribal Development, 1994 Mh.L.J Online (S.C.) 2. It lays down that the documents of the pre-Constitution period showing the caste of the applicant and their ancestors have got the highest probative value. For example, if an applicant is able to produce authentic and genuine documents of the pre-Constitution period showing that he belongs to a tribal community, there is no reason to discard his claim as prior to 1950, there were no reservations provided to the Tribes included in the ST order. In such a case, a reference to Vigilance Cell is not warranted at all.”

6. The learned Assistant Government Pleader fairly conceded that though this order came to be passed on 28.12.2004, it was not communicated to the Petitioner, at least they are not having any record to show that this order was communicated to the Petitioner. Even after 2004, the law is developed on the point of area restrictions and affinity.

7. The learned Caste Scrutiny Committee erred in discarding the old documents of cut off date showing caste “Thakur” and on the basis of affinity and area restrictions, discarded the claim of the Petitioner. In view of the Judgment in the case of Pratik Prakash Bayaskar, who is nephew of the Petitioner, it would be appropriate to declare the caste certificate as valid by setting aside the impugned order. Accordingly, we pass the following order :

- (i) The Writ Petition is **allowed**.
- (ii) The order dated 28.12.2004, passed by the Schedule Tribe Caste Certificate Scrutiny Committee, Amravati in the matter of Petitioner Prakash S/o Pundlik Bayaskar is hereby quashed and set aside.
- (iii) It is declared that the Petitioner belongs to “Thakur” Scheduled Tribe on the basis of pre-constitutional entries of “Thakur” in the documents in relation to his blood relative.
- (iv) The Respondent - Schedule Tribe Caste Certificate Scrutiny Committee, Amravati is hereby directed to issue validity certificate to the Petitioner of Schedule Tribe “Thakur” within a period of four weeks from the date of the order.

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

(PRAVIN S. PATIL, J.)

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

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