



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

WRIT PETITION NO.4331 OF 2024

Varad Shankar Thakur, aged 24 years, r/o Ram
Nagar, Ward no. 20, Hanuman Tekdi Road,
Near Swami Samartha Kendra, Mehkar,
District Buldhana.

... PETITIONER

VERSUS

1. Scheduled Tribe Caste Certificate Scrutiny
Committee, through its Member Secretary,
Chaprasipura, Amravati.
2. Zilla Parishad, Buldhana through its Chief
Executive Officer, Tq. District Buldhana.

... RESPONDENTS

Shri R.S. Parsodkar, Advocate for the petitioner.
Mrs. S.V. Kolhe, Assistant Government Pleader for the State.

CORAM : SMT. M.S. JAWALKAR AND PRAVIN S. PATIL, JJ.

CLOSED ON : 17.07.2025.

PRONOUNCED ON : 21.07.2025.

JUDGMENT : (Per : Pravin S. Patil, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. By this petition, the petitioner is challenging the order

dated 13.08.2018 passed by the respondent no.1 Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for short hereinafter referred to as 'the Committee') rejecting the caste claim of the petitioner of belonging to Thakur Scheduled Tribe.

3. In brief, it is submission of the petitioner that he is a student and completed his graduation in Science in the year 2022 and thereafter applied and appeared for examination of MAH-B.Ed. (General & Special) CET 2025. In the said examination, he has been declared eligible for admission in B.Ed. Course, for which the last date for uploading the caste validity certificate is 23.07.2025, therefore, this matter is taken up for final disposal by consent of both the parties.

4. Admittedly, in the present case, the petitioner who claims to be belonging to Thakur Scheduled Tribe, received the caste certificate from the Competent Authority and the same was forwarded to the respondent Committee for verification. The petitioner in support of his caste claim produced in all 18 documents to the Committee, which included pre-constitutional documents, in which the caste of his ancestral were recorded as 'Thakur'. As such, it is his submission that considering the said documents, respondent Committee ought to have issue the caste validity certificate in his favour but, without considering

the documentary evidence produced by him, which are pre-constitutional one, his caste claim is rejected.

5. Learned Counsel for the respondent Committee stated that from the documents produced on record, particularly the documents in respect of the brother of grandfather namely Dhondya Awadhoot Punjaji, the caste was mentioned as 'Thakar'. It is further stated that in respect of Shankar Kundlik Thakur, who is the father of the petitioner, document dated 15.06.1965, the caste is recorded as Maratha and documents dated 16.07.1973, the caste is recorded as Hindu in the Dakhal-Kharij register of the School. Hence, on the basis of these findings, the Committee has rightly rejected the caste claim of the petitioner.

6. With the assistance of both learned Counsel, we have perused the record and particularly, entries of old documents placed on the record of the Committee. The petitioner has specifically relied upon the Genealogical tree prepared during the course of vigilance enquiry, according to which, Punjaji is the great great grandfather, Awadhoot is great grandfather Dhondya and Kundlik are the grandfather and Shankarrao is the father of the petitioner, which is not disputed by any of the parties.

7. In the present matter, learned Counsel for the respondent, pointed out that the entry recorded in the Kotwal register, in favour of the great grandfather namely Awadhoot dated 08.10.1936 shows the caste as 'Thakar' and not 'Thakur' and therefore, the same is not reliable. But at the same time entry in the name of his son Dhondya is not denied nor disputed in the matter.

8. Contrary to said documents, the petitioner states that the revenue entry of the year 1936 shows the caste of his great grandfather Awadhoot recorded as 'Thakur'. As such, according to the petitioner there was a human mistake while recording entry in Kotwal Book Register and therefore, same is required to be treated as Thakur.

9. Learned Counsel for the petitioner in support of his submission also pointed out the School leaving Certificate of Dhondy Awadhoot Thakur, who is the cousin grandfather of the petitioner dated 27.11.1951 from which it is clear that his caste is mentioned as Thakur. Hence, this document further corroborated the submission of the petitioner that there are consistent entries as Thakur in the school record of his ancestral.

10. In this regard, it is pertinent to note that as per Constitution (Scheduled Tribe), Order 1950 at serial No.44 the castes are mentioned

as Thakur, Thakar, Ka Thakur, Ka Thakar, Ma Thakur, Ma Thakar. As such, Thakur or Thakar came in same category. Therefore, no much weightage can be given to be submission of the respondent Committee, that only because in some document caste is mentioned as Thakar, the petitioner's caste claim for Scheduled Tribe be denied.

11. The respondent Committee in the impugned order relied upon the two entries in respect of School record of the father namely Sharad Kundlik dated 15.06.1965 and 16.07.1973. However the petitioner from family tree, pointed out that the name of the father of the petitioner is Shankarrao and not Sharad. As such, it is stated that the entries relied upon by respondent Committee of one Sharad Kundlik is at all not related with petitioner family. Consequently, the entries relied upon by the respondent Committee are unwarranted.

12. It is stated that as per the law laid down by the Hon'ble Supreme Court as well as observed in catena of judgments by this Court, the pre-constitutional documents is having more probative value and the same cannot be discarded. Here, it is admitted fact that the petitioner produced documents of pre-constitutional era, particularly, the entry in the name of Kundlik Awadhoot dated 13.07.1944, entry of cousin great grandfather dated 08.10.1936 which are sufficient to

demonstrate that the ancestral of the petitioner belongs to caste Thakur Scheduled Tribe.

13. Therefore, considering the pre-independence documents available on record, it is not permissible on the part of the respondent no.1 Committee to rely on the post-independent documents i.e. 15.06.1965 and 16.17.1973 that too of the person, who is not related with the petitioner's family.

14. It is further pointed out that recently, the Hon'ble Supreme Court has categorically laid down the law in the case of *Maharashtra Adiwasni Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and ors. (2023) SCC Online SC 326* that affinity test is not a litmus test to decide the caste claim and is not an essential part in process of determination of correctness of the caste or tribe claim in every case. Affinity test cannot be conclusive proof conducted by the Vigilance Cell. Hence, reliance of the respondent on the affinity test, is misconceived, and therefore, the reasons recorded in that regard are not acceptable in the matter.

15. It is pertinent to note that the petitioner has produced pre-constitutional era documents. The perusal of the order of the respondent no.1 Committee shows that the Committee himself

recorded the findings that the documents filed by the petitioner pertaining to his father, grandfather, great grandfather specifically shown the entry of Thakur in their school and revenue record. However, the same was not considered merely because the entries of the year 1965 and 1973 were found to be of other caste. As such, there is total non-application of mind at the instance of the respondent Committee while deciding the caste claim of the petitioner.

16. The petitioner has rightly relied upon the law laid down by the Hon'ble Supreme Court in the case of *Anand v. Committee for Scrutiny and Verification of Tribe Claims and ors. (2012) 1 SCC 113*, in which the Hon'ble Supreme Court has specifically held that "genuineness of a caste claim has to be looked into broad perspective rather than mere verification of documents. Older documents have higher probative value. It is further held that the Committee cannot gather evidence on its own to prove or disprove the caste claim". But contrary to the law laid down by the Hon'ble Supreme Court, we find that in the present case, the Committee on its own relied upon the entry of the year 1965 and 1973 in respect of a person namely Sharad, who is not related with the petitioner and thereby discarded the entries of ancestral of the petitioner. Hence, the finding recorded by the Scrutiny Committee that on the basis of documentary evidence, the

petitioner failed to prove the caste claim, is certainly incorrect.

17. In respect of finding of area restriction, learned Counsel for the petitioner has rightly relied upon the judgment of the Supreme Court in the case of *Jaywant Dilip Pawar vs. State of Maharashtra and ors. 2018(5) ALL MR 975 (S.C.)*, wherein it is held that the area restriction of Scheduled Tribes in the State of Maharashtra for the Thakur community has been deleted after the Scheduled Caste and Scheduled Tribes Orders (Amendment) Act, 1976 was published and all members of Thakur community are to be treated as Scheduled Tribe. Hence considering the law laid down by the Hon'ble Supreme Court, the reasons recorded by the respondent Committee is liable to be quashed and set aside.

18. It is pertinent to note that this Court in *Writ Petition No.6015 of 2022 (Dipak Laxman Pawar and ors. vs. The Scheduled Tribe Caste Certificate Scrutiny Committee and ors.)* dated 01.08.2023, has considered elaborately the entire legal position and the view taken by this Court and observed in paragraph 9 as under :

“9. One need not overemphasize the trite legal position that the oldest entry of “Thakur”, particularly which are entered into before the Presidential Order had come into, would carry greatest evidenciary value. There is no dispute, rather even the Committee does not deny the

existence of School Leaving Certificate of the father of petitioner Nos. 1 and 2 and Dhakhil Kharij Uttara (दाखिल खारिज उत्तरा) of the uncle of petitioner Nos.1 and 2 of the years 1944 and 1943, respectively. Apart from it, there is an Extract of Birth of the year 1916 showing the caste of great grandfather of petitioner Nos.1 and 2 as “Thakur”. The Committee, relying on the retyped document of the same Birth Extract of the year 2016, wherein the name of great grandfather of petitioner Nos.1 and 2 is written as ‘Bawlya Hari’ instead of ‘Balkrishna Hari’, erroneously held that the petitioners could not prove relations with ‘Bawlya Hari’. In fact, it is ‘Balkrishna Hari’, which can be seen from the copy of original Birth Extract, wherein the name of the great grandfather is shown as ‘Balkrishna Hari’. Therefore, we find support in the argument of the learned Counsel for the petitioners that instead of ‘Balkrishna Hari’ while retyping the Birth Extract, the Revenue Authority has mentioned ‘Bawlya’ instead of ‘Balkrishna’. No doubt, there is one contra entry in the name of ‘Balkrishna Hari’ showing his caste as “Bhat” in the year 1990. Since, the earlier entry of 1916 showing the caste of great grandfather of the petitioners as ‘Thakur’, which is earlier in point of time, the subsequent entry in the document of the year 1919 showing caste as “Bhat” loses significance. How the caste of a person within three years will be changed from “Thakur” to “Bhat”. The Committee has not considered this aspect of the case, particularly when all other documents except the document of the year 1919 consistently showing the caste of the petitioners and their forefathers as “Thakur”.

19. In the circumstance, we are satisfied that the petitioner belongs to caste ‘Thakur’ Scheduled Tribe and the pre-constitutional era documents supports his caste claim. But, the respondent Committee erroneously relied upon the entries of unknown person and wrongly rejected the petitioner’s caste claim. Hence considering the entire

factual matrix of the matter, we are of the opinion that the impugned order is erroneous, arbitrary and contrary to the law laid down by the Hon'ble Supreme Court, therefore the same is liable to be quashed and set aside. Hence, the following order :

- (a) The Writ Petition is allowed.
- (b) It is declared that the petitioner belongs the Thakur Scheduled Tribe.
- (c) Respondent no. 1 Committee is hereby directed to issue caste validity certificate to the petitioner of Thakur Scheduled Tribe within a period of two weeks from the date of production of this order.
- (d) This judgment and order of this Court be relied by the concerned Authority as a caste Validity of the petitioner of Thakur Scheduled Tribe, for the purpose of admission of the petitioner in MAH-B.Ed. (General & Special) CET 2025 and till the receipt of caste validity certificate from the respondent Committee.

20. Rule is made absolute in aforestated terms. No costs.

(PRAVIN S. PATIL, J.)

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

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