

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

WRIT PETITION NO.7255/2017

Geeta Sengar D/o. Mohansingh Vs. State of Maharashtra and Ors.

Ms. Shreya Jain, Advocate h/f. Mr. S. S. Dhengale, Advocate for Petitioner.
Ms K. Bhondge, A.G.P. for Respondent Nos.1 to 3/State.

CORAM : **NITIN W. SAMBRE AND**
MRS.VRUSHALI V. JOSHI, JJ.

DATED : **14/01/2025.**

P.C.

. Heard.

2. Vide order impugned dated December 7, 2016, the tribe claim of the petitioner of belonging to “Thakur” Scheduled Tribe came to be negated/rejected which is subject matter of challenge in the petition.

3. The petitioner for the purpose of securing employment got issued a certificate dated July 3, 1995 as that of belonging to “Thakur” Scheduled Tribe. The said certificate was accordingly forwarded to the respondent – Committee vide covering letter dated July 31, 2007 by the office of the Collector, Nagpur for the purpose of verification.

4. Along with the proposal for issuance of Validity Certificate, the petitioner has submitted seven documents so as to justify the claim.

5. Since the Committee was not in agreement with the claim put-forth by the petitioner, the same was referred to the Vigilance Cell for enquiry vide order dated December 24, 2007. The Vigilance Cell conducted an enquiry and submitted its report along with two adverse documents in relation to the uncle and the

father of the petitioner namely Rajkumar and Mohan son of Govindsingh Mangalsingh Sengar respectively. As far as the uncle's caste is concerned in the Dakhal Khariz Register, the same is Kshtriya whereas that of father is Rajput of the years 1958 and 1960 respectively.

6. Based on the aforesaid documents viz. adverse entries in relation to caste and the failure of the petitioner to establish the affinity test, the order impugned came to be passed.

7. The learned Counsel for the petitioner while questioning the impugned order would urge that the petitioner in support of the claim submitted in all seven documents viz. the Affidavit, the Caste Certificate of July 3, 1995, the School Leaving Certificate of the petitioner of Secondary School of June 6, 1995, the Caste Certificate issued in favour of the cousin brother Sureshsingh of July 01, 1992, the Caste Certificate issued in favour of Dilip of September 08, 1990 and the affidavit of father namely Mohansingh of October 13, 2006.

8. According to the learned Counsel for the petitioner, there is a consistent entry of caste "Thakur" in all these seven documents which should have been taken into account by the Committee. She would urge that the Committee has ignored the aforesaid documents merely based on the old documentary entries in relation to uncle and father of 1950 and 1952 respectively. She would further claim that the Committee has erred in recording the finding that the petitioner has failed to establish an affinity test. According to her, the affinity test in view of the advancement in the society cannot be termed as a litmus test and has drawn support from the observations made by the Hon'ble Apex Court in para 22(ii) in the judgment of *Anand Vs. Committee for Scrutiny*

and Verification of Tribe Claims and Ors. reported in ***(2012) 1 SCC 113.***

9. As against above, the learned Assistant Government Pleader would support the impugned order as according to her, the oldest documents in relation to uncle and father depict different caste than “Thakur” Scheduled Tribe.

10. We have considered the said submission.

11. The documents in support of the claim put forth by the petitioner viz. the Caste Certificates, the Affidavits and the entries in regard to the petitioner are concerned, all these documents are either self acquired by the relatives or by the petitioner himself or the entries in the School record is of a recent past i.e. 1995 onwards.

12. The affidavits sworn by the petitioner and her father cannot be accepted in the evidence in support of the tribe claim. Similarly, the Caste Certificate issued in favour of the petitioner so also other blood relatives are always subject to scrutiny and as such, cannot be accepted in evidence as admitted documents in support of the claim for issuance of the validity.

13. The Scrutiny Committee after having received the Vigilance Cell Report has noted that the old entries of 1950 and 1952 in relation to the uncle and the father of the petitioner in school record reflects their caste as Kshtriya and Rajput respectively.

14. Such entries are of 1950 and 1952 which are oldest qua the claim of the petitioner. In such an eventuality, the petitioner or her blood relations namely the uncle or the father owe a convincing explanation for the same as Section 8 of the

Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes, Nomadic Tribes, Other Backward Classes, and Special Backward Category (Regulation of Issuance and Verification of Caste Certificates) Act, 2000 contemplates the burden should be discharged by the petitioner in support of the tribe claim. The petitioner or her blood relations are unable to submit a convincing explanation before the Committee so also before this Court as to what prompted the change in the caste of the petitioner from either Kshatriya or Rajput which is the caste of uncle and father of the petitioner respectively.

15. That being so, the documents which were submitted by the petitioner which are seven in numbers were rightly discarded by the Committee.

16. Apart from the above, what is required to be considered is the Committee proceeded to analyze the information supplied by the petitioner in the form of customs and traditions follow by her family members. The petitioner's ancestors were resident of Allahabad, Uttar Pradesh. The nature of traditions which are followed were duly considered by the Committee so as to establish affinity with "Thakur" Scheduled Tribe. The Committee thereafter proceeded to record a finding that the petitioner has failed to establish affinity with "Thakur" Scheduled Tribe.

17. Such finding of the Committee which is an expert body is based on the appreciation of the material placed before it by the petitioner. The Committee consists of a Research Officer, who is expert in the field of the knowledge in relation to the scheduled tribe community and as such is entitled to evaluate the establishment of affinity.

18. Rightly so, the learned Counsel for the petitioner has drawn support from the judgment of **Anand** (*cited supra*) so as to claim that in the present scenario, the affinity test cannot be termed as a litmus test, however, the judgment cannot be staged to the extent that the petitioner is not required to demonstrate affinity with “Thakur” Scheduled Tribe. It is a basic requirement that the affinity must be shown by the petitioner when the claim for issuance of validity of “Thakur” Scheduled Tribe is sought, which the petitioner has failed to do. As such, the law laid down in the judgment of the **Anand** (*supra*), in our opinion will be of hardly any assistance.

19. In this background, no case for causing interference in extraordinary jurisdiction is made out. The petition fails and stands dismissed.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)