



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

WRIT PETITION NO.5619 OF 2024

Shri Nilesh s/o Jaykumar Chavan, aged 40
years, Occ. Service, r/o Shri Swami Samarth
Nagar, Yojnadeep Colony, Malegaon Road,
Washim.

... PETITIONER

VERSUS

1. The State of Maharashtra, through its
Secretary, Ministry of Tribal Welfare
Department, Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Caste Scrutiny
Committee, Amravati Division, Amravati,
through its Chairman, Irwin Square,
Amravati.
3. Commissioner, Social Welfare, State of
Maharashtra, Pune.
4. Regional Deputy Commissioner, Social
Welfare, Pune Division, Amravati.
5. Assistant Commissioner, Social Welfare,
Dist. Washim.
6. Sub-Division Officer, Akola, Dist. Akola.

... RESPONDENTS

Shri Anil Mardikar, Senior Advocate a/b Shri D.P. Singh, Advocate
for the petitioner.

Ms. Deepali Sapkal, Assistant Government Pleader for respondent
nos. 1 to 6/State.

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

DATE : 11.07.2025.

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

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

2. The matter is taken up for final disposal by consent of the parties.

3. By this petition, the petitioner is challenging the order dated 07.08.2024 passed by the respondent no.2 Caste Scrutiny Committee, Amravati ('the Committee') whereby the caste claim of the petitioner as Thakur Scheduled Tribe is rejected.

4. It is the case of the petitioner that he being appointed as a Junior Clerk in the Social Welfare Department, on 04.09.2015, his caste claim was forwarded to the respondent no.2 Committee. However, for a considerable period, the decision was not taken on his application, therefore, petitioner had filed Writ Petition No.7012 of 2017 in which directions were issued to respondent nos.3 to 5 to protect the services of the petitioner till the caste claim is decided and further directions were issued to respondent no.2 Committee decide the caste claim of the petitioner expeditiously.

5. In view of decision of this Court dated 19.01.2018 in Writ Petition No.7012 of 2017, respondent no.2 the Committee on

19.09.2018 by invoking the powers under Section 12 of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (for short hereinafter referred to as 'Rules, 2003') forwarded the documents tendered by the petitioner to the Vigilance Cell. After verification of documents the Vigilance Cell submitted its report on 13.12.2018 to respondent no. 2 Committee with specific remark of the Police Inspector of Vigilance Cell under भाग ह (page 104 of the petition) that the Police Inspector of Vigilance Cell has visited the Tahsil office at Akola and verified the documents and on that basis stated that the record shows the caste of the petitioner as 'Thakur'.

6. Respondent no.2 Committee on 08.03.2019 issued Show Cause Notice to the petitioner calling explanation on the Vigilance Cell report. On 30.03.2019, the petitioner tendered his written submission before the Committee by raising preliminary objection stating that the perusal of the Vigilance Report shows that during the course of vigilance cell enquiry, all the entries prior to year 1950 are found to be Thakur Scheduled Tribe and therefore, considering the report, there was no necessity to issue the Show Cause Notice.

7. After petitioner tendered an explanation, the Committee, without providing any reason, again forwarded the documents relied upon by the petitioner to the Vigilance Cell, requesting an inquiry into

the matter. In the second report, the Vigilance Cell had produced the extract of Kotwal register in the name of Yasodi Va Purnaji alleging that entry dated 13.10.1927, shows her caste as 'Marathi'. On the basis of this report, again show cause notice was issued to the petitioner on 11.06.2024 calling explanation on the entry which was found in the name of Yasodi.

8. In response to the same, the petitioner tendered his explanation on 19.06.2024 and specifically stated that when once the documents are verified by the Vigilance Cell and tendered its report on 19.09.2018, there was no reason to again forward the documents to the Vigilance Cell without assigning any reason. It is further stated that the documents collected by the Vigilance Cell i.e. copy of Kotwal register of Yasodi Purnaji dated 13.10.1927 having entry of caste 'Marathi' is not related to the applicant and in the family tree drawn by the Vigilance Cell during the course of enquiry, name of said Yasodi is nowhere recorded. Hence the Committee cannot placed reliance on this document.

9. After tendering the explanation, the petitioner was asked to remain present before the respondent no.2 the Committee on 31.07.2024. Accordingly, the petitioner remain present before the Committee and stated that along with his application, he has produced pre-constitutional era documents of his great grandfather and grandfather, which clearly show that his ancestral belongs to caste "Thakur Scheduled Tribe" and requested to consider the same while deciding his caste claim.

10. In the background of above said factual position, respondent no.2 the Committee proceeded to decide the caste claim of the petitioner. But surprisingly relied upon the second Vigilance Cell report instead of preconstitutional documents produced by the petitioner and held that the petitioner is not entitled to claim the caste of Thakur as the entry in the name of Yasodi Purnaji, who is alleged to be the sister of the grandfather of the petitioner recorded her caste as 'Marathi'.

11. As such, the petitioner challenging the impugned order on the ground that the reasons recorded by the Caste Scrutiny Committee are perverse and incorrect. Secondly, it is the submission of the petitioner that 'Marathi' is not a caste it is a language and thirdly, on the ground that pre-constitutional era documents having more probative value and therefore, same should have been considered by the respondent no.2 the Committee while deciding the caste claim. In support of his submission the petitioner has relied upon the following judgments/case laws :

- (i) Writ Petition No.10310/2017 with Civil Application No.2229/2017 (Aishvarya Prakash Londhe vs. The State of Maharashtra and ors.) decided on 05.10.2017.
- (ii) Writ Petition No.7034/2019 (Balasaheb Jaywantrao Patil vs. State of Maharashtra and ors.) decided on 20.12.2019.
- (iii) Writ Petition No.7391/2017 (Kiran Maruti Londhe vs. The State of Maharashtra and ors.) decided on 13.03.2023.

- (iv) Writ Petition No.7739/2017 (Pradip Bhimrao Nichale and anr. vs. Scheduled Tribe Caste Certificate Scrutiny Committee and ors.) decided on 09.10.2024.
- (v) Writ Petition No.906/2023 (Virendrasingh s/o Ramsingh Thakur vs. Joint Commissioner and Vice Chairman and ors.) decided on 18.10.2024.
- (vi) Writ Petition No.4101/2021 (Gajanan s/o Matiram Donge vs. The Vice-Chairman/Member Secretary) Decided on 13.08.2024.
- (vii) Writ Petition No.6959/2023 with anr connected matter (Prajakta d/o Suresh Bayaskar vs. The Vice Chariman/Member Secretary) decided on 08.05.2024.
- (viii) Writ Petition No.2687/2021 with anr. Connected matter (Vidya s/o Bhanudas Ingle vs. The Vice Chairman/Member Secretary) decided on 15.10.2024.
- (ix) Writ Petition No.4373/2023 (Sharad s/o Harishchandra Pawar vs. Scheduled Tribe Caste Certificate Scrutiny Committee and anr.) ith anr. Connected matter decided on 26.04.2024.
- (x) Writ Petition No.5226/2019 (Vaishnavi d/o Madhukar Thakur vs. Scheduled Tribe Caste Certificate Scrutiny Committee and anr.) decided on 26.04.2024.
- (xi) Writ Petition No.759/2023 (Madhukar s/o Namdeo Thakur vs. Joint Commissioner and Vice Chairman and ors.) decided on 26.04.2024.

12. Learned Assistant Government Pleader appearing for respondent no.2 the Committee strongly opposed the petition stating that socio cultural

affinity plays a very important role to decide the caste claim and where there are same names, i.e. synonymous caste name with the tribe but having the existence of different social status group, the Committee is required to rely upon the affinity test. Hence, the findings recorded by the Committee cannot be said to be illegal and incorrect. As such, the present petition deserves to be dismissed.

13. We have heard the respective Counsel appearing for the parties, perused the record and considered the case laws on which the parties has relied upon.

14. It is an admitted fact that the petitioner in support of his caste claim tendered in all 14 documents before the Committee, out of which, the petitioner heavily relied upon some entries which was of pre-constitutional era. The entries on which the petitioner has relied upon are as under :

- (i) School Leaving Certificate of Janardhan Purnaji dated 05.12.1927, who is the grandfather of the petitioner.
- (ii) School Leaving Certificate of Gunwant Purnaji dated 11.04.1934, who is the cousin grandfather of the petitioner.
- (iii) Sale Deed dated 18.02.1950 in favour of Janardhan Purnaji Thakur, who is the grandfather of the petitioner.
- (iv) Birth entry dated 08.08.1920 in the name of great great grandfather.

15. According to the petitioner, these entries being the pre-constitutional era, has more probative value than any other documents in the matter. Accordingly, he has relied upon the judgment of ***Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and ors. 2011(6) Mh.L.J. 929***, wherein the Hon'ble Supreme Court has held that entries in the pre-constitutional era documents have to be given preference. Furthermore, the Committee is required to consider the oldest documents of the ancestral without raising any doubt on such documents. However, according to the petitioner, preconstitutional era documents are not considered in the matter.

16. It is pertinent to note that recently Hon'ble Supreme Court in the case of ***Maharashtra Aadiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and ors. 2023 (2) Mh.L.J. 785*** has considered the Rule 12 of the Rules, 2003. According to the said Rule, the Committee can only refer the documents relied by applicant along with his claim to the Vigilance Cell, in the cases the Committee is of the opinion that the documents are doubtful and scrutiny of the same is required. It is held that while forwarding such documents, the Committee should record the reasons and same shall not be forwarded as a routine matter. The relevant paragraphs 19 and 20 are reproduced as under :

“19. Sub-rule (2) of Rule 12 clearly provides that only if the Scrutiny Committee is not satisfied with the documentary evidence produced by the applicant, it shall forward the application to the Vigilance Cell for conducting the school, home and other enquiry. Therefore, in every case, as a matter of routine, the Scrutiny Committee cannot mechanically forward

the application to Vigilance Cell for conducting an enquiry. When sub-rule (2) of Rule 12 contemplates that only if the Scrutiny Committee is not satisfied with the documents produced by the applicant that the case should be referred to Vigilance Cell, it follows that the Scrutiny Committee is required to pass an order recording brief reasons why it is not satisfied with the documents produced by the applicant. Before referring the case to the Vigilance Cell, application of mind to the material produced by the applicant is required and therefore, the application of mind must be reflected in the order sheets of the Scrutiny Committee.

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 Patil¹. 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.”

17. But in the present matter, we found utter violation of Rule 12(2) of Rules, 2003. Respondent no. 2 Committee without assigning any reasons, twice referred the case papers of petitioner to Vigilance Cell. This fact clearly demonstrate that respondent no. 2 was bend upon to any how reject the caste claim of petitioner. This approach of respondent no. 2 is highly condemnable.

18. It will be necessary to state that what we noted down in most of the cases the Vigilance Cell is digging out the documents, which are not the part of record or which are not submitted by the applicant for verification. The present case is one of them. Here also it is an admitted fact that initially the Police Vigilance Cell in its report to the Committee dated 13.12.2018

nowhere stated about entry of Yashodi, but in second report dig-out the said entry. As such, the procedure adopted by the Committee in the present matter clearly establishes the fact that the Committee has predetermined to invalidate the caste claim of the petitioner, and therefore, adopted such procedure, which is contrary to the settled principles of law.

19. It will be relevant to point out the observations made by the Hon'ble Supreme Court in the case of *Anand vs. Committee (supra)*, wherein broad parameters were laid down while dealing with the caste claim. It is specifically made clear by the Hon'ble Supreme Court that :

“while dealing with the documentary evidence, greater reliance may be placed on pre-independence documents because they furnished a higher degree of probative value to the declaration of status of caste, as compared to the post-independent documents. It is further added by the Hon'ble Supreme Court that the Committee performs the role of verification of the claim and therefore, can only scrutinized the documents and material produced by the applicant. As such, the Committee has to verify the material produced by the applicant and cannot gather evidence on its own to prove or disprove the claim.

20. However, in the present claim the Committee had acted in total violation of the direction of the Hon'ble Supreme Court. Therefore, considering this fact we are of the considered opinion to impose cost on the Committee.

21. Respondent no. 2 Committee has relied upon the sole entry pointed out by the Vigilance Cell in its second report dated 28.05.2024. According to the Committee Members, the Vigilance Cell has searched out the

extract of Kotwal register in the name of Yasodi Purnaji, who is alleged to be the sister of grandfather of the petitioner and entry dated 13.10.1927 recorded her caste as 'Marathi'. The Committee has failed to appreciate the specific reply filed by the petitioner dated 19.06.2024 whereby the petitioner specifically denied his relation with Yasodi Purnaji. It is further pertinent to note that in the genealogical tree prepared by the Vigilance Cell during the course of enquiry it is nowhere recorded her name. Hence according to us, the Committee has failed to explain how Yashodi is in relation of petitioner.

22. In respect of fact that 'Marathi' is a language and not a caste, the petitioner has rightly relied upon the judgment delivered by this Court in Writ Petition Nos.10310/2017, 7034/2019 and 7391/2017, in which this Court consistently held that 'Marathi' cannot be treated as a caste, as it is a language which find place in scheduled VIII of the Constitution of India. So also, it is held that on the basis of said sole entry 'Marathi' the various documents submitted by the petitioner having entry of belonging to Thakur Scheduled Tribe cannot be discarded. However, respondent no.2 Committee, who is supposed to know the well settled position of law that the 'Marathi' is a language and not a caste, committed grave mistake to invalidate the caste claim of petitioner.

23. In view of unjustified approach of respondent no. 2 against petitioner, we have perused the pre-constitutional era documents relied by petition and which were part of record before respondent no. 2 Committee.

All these documents clearly shows that the caste of ancestor of the petitioner are recorded as 'Thakur'. There is no ambiguity nor same found to be doubtful in any manner. As such, petitioner proved that he belongs to caste of Thakur Scheduled Tribe. In our considered opinion the order passed by the Committee is erroneous, arbitrary and unjustifiable.

24. It is clear from the record that the Committee has not followed the law laid down by the Hon'ble Supreme Court in the case of *Maharashtra Aadiwasi Thakur Jamat Swarakshan Samiti vs. State and Anand vs. Committee (supra)*. As such, petitioner since the year 2015, is required to run from pillar to post to get his caste claim decided from the respondent Committee. It is also transpired from the record that there was no reason for the Committee to sent back the documents to the Vigilance Cell when the report was in favour of the petitioner. As such, it can be said that only to harass the petitioner and ultimately to invalidate the caste claim of the petitioner, the Vigilance Cell digged out the document i.e. particularly the entry of Yasodi Purnaji which was not at all related with the petitioner. In view of the conduct of the respondent no. 2 Committee, it will be appropriate to impose the costs on Committee for the harassment caused to the petitioner in the matter.

25. Hence, we proceed to pass the following order :

- (a) The Writ Petition is allowed.

- (b) The impugned order dated 07.08.2024 passed by the respondent no. 2 The Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is hereby quashed and set aside.
- (c) The respondent no.2 is directed to issue the caste certificate of Thakur Scheduled Tribe to the petitioner within a period of four weeks from the date of production of this order.
- (d) The respondent no. 2 Committee to pay costs of Rs.25,000/- to the petitioner for the harassment and mental agony caused to him in the matter.
26. Rule is made absolute accordingly.

(PRAVIN S. PATIL, J.)

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

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