



9-WP-7383-23

1/12

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

WRIT PETITION NO.7383 OF 2023

Dayaram S/o Tryambak Donge
Aged about 64 yrs, Occ. Retired,
R/o At-Post-Nimgaon,
Tah. Nandura, Distt. Buldhana ... Petitioner

-vs-

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

Ms Himani Kavi, Advocate for petitioner.
Shri A. V. Palshikar, Assistant Government Pleader for respondent.

CORAM : SMT M. S. JAWALKAR AND RAJ D. WAKODE, JJ.

ARGUMENTS WERE HEARD ON : 23rd September, 2025

JUDGMENT PRONOUNCED ON : 17th November, 2025

JUDGMENT : (PER : RAJ D. WAKODE, J.)

Heard Ms Himani Kavi, learned counsel for the petitioner and
Shri A. V. Palshikar, learned Assistant Government Pleader for the
respondent.

2. **Rule.** Rule made returnable forthwith by consent of the parties.
The petitioner has approached this Court being aggrieved by the
impugned order dated 04/07/2023 passed by the respondent-
Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for
short, the Committee) thereby invalidating the caste-claim of the

petitioner towards 'Thakur' Scheduled Tribe.

3. The brief facts which are undisputed leading to the present petition are as follows.

The petitioner claims to be belonging to 'Thakur' Scheduled Tribe which is included as Scheduled Tribe at Sr.No.44 in the Constitutional Scheduled Tribes Order, 1950. The petitioner in order to substantiate his claim has placed on record Form-C Scheduled Tribe Certificate dated 02/01/2018 issued by the Sub Divisional Officer, Malkapur which is at record page 42, Annexure-4. The petitioner had joined in Class-IV category as 'Peon' with the office of Government Milk Scheme, Nandura. The employer of the petitioner forwarded the caste-claim of the petitioner for verification to the respondent-Committee on 21/11/2017. The reference letter issued by the Manager, Government Milk Scheme, Nandura substantiating the aforesaid fact is at record page 35, Annexure-1.

4. The petitioner in support of his claim towards 'Thakur' Scheduled Tribe has relied upon as much as 19 documents out of which three documents were pre-constitutional pertaining to his grandfather and uncle of the period 1918 to 1933 showing the caste entry as 'Thakur'.

5. The respondent-Committee referred the caste-claim of the petitioner to the police vigilance cell which conducted an enquiry regarding the home, school and other allied enquiry pertaining to the petitioner. The police vigilance cell submitted the vigilance cell report to the respondent-Committee on 16/03/2023 which is placed on record at page 53, Annexure-10. The police vigilance Cell has obtained certain pre-constitutional documents pertaining to the petitioner showing caste as 'Bhat Thakur' and 'Marathe' so also the police vigilance cell has opined that the petitioner has failed to prove his affinity towards 'Thakur' Scheduled Tribe.

6. In view of the adverse vigilance cell report, the respondent-Committee issued show cause notice to the petitioner on 27/03/2023. In response to the aforesaid show cause notice, the petitioner has submitted his explanation on 16/05/2023 which is at record page 66, Annexure-11. The petitioner in reply has specifically denied his relationship with the individuals pertaining to whom contra entries were obtained by the respondent Committee. However, the respondent Committee has invalidated the caste-claim of the petitioner towards 'Thakur' Scheduled Tribe vide order dated 04/07/2023 which is impugned before this Court.

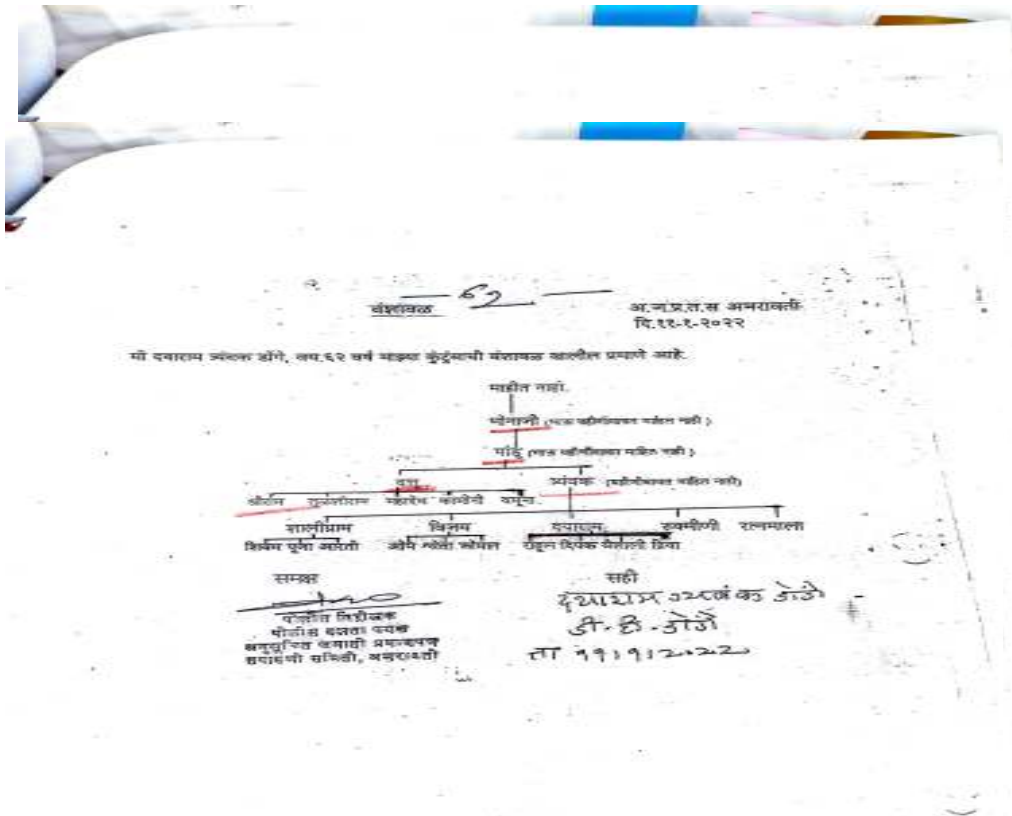
7. We have heard Ms Himani Kavi, learned counsel for the petitioner. She contends that the petitioner had submitted at least three pre-constitutional documents pertaining to the years 1918, 1927 and 1933 which were erroneously rejected by the respondent-Committee. The learned counsel also further argued that the respondent-Committee was not at all justified in rejecting the caste-claim of the petitioner on the basis of affinity test and area restrictions as the aforesaid issue has been held in favour of the petitioner by the Honourable Apex Court. The learned counsel at the outset submitted that the respondent-Committee was not justified in relying upon the contra entries of the individuals who were not at all related to the petitioner particularly when relationship with those individuals has been specifically denied by the petitioner.

On the contrary, learned Assistant Government Pleader Shri A. V. Palshikar supported the impugned order dated 04/07/2023 passed by the respondent Committee. He contended that the vigilance cell tried to verify the pre-constitutional document dated 09/07/1918 pertaining to the grandfather of the petitioner. However, said document could not be verified as the relevant record was in dilapidated condition and hence aforesaid document has not been considered. Shri Palshikar further invited our attention to the police vigilance cell report to show that that there are at least three pre-

constitutional documents pertaining to the years 1932 and 1933 showing caste entry of 'Bhat Thakur' and 'Marathe' in respect of relatives of the petitioner. He also pointed out the vigilance cell report wherein the police vigilance cell has held that the petitioner has failed to prove affinity towards 'Thakur' Scheduled Tribe.

In view of above, Shri Palshikar submitted that the impugned order passed by the respondent-Committee thereby invalidating the caste-claim of the petitioner is justified and hence the present writ petition is liable to be dismissed by the Court.

8. In the light of above factual position and the arguments rendered by the respective counsel, we have perused the documents and original record produced by the respondent-Committee. The petitioner in order to substantiate his caste-claim towards 'Thakur' Scheduled Tribe has placed on record the pre-constitutional documents, however before referring to those documents, it would be fruitful to point the genealogical tree of the petitioner as prepared by the police vigilance cell on 11/01/2022 which is at record page 62.



9. Perusal of the genealogical tree of the petitioner would reveal that the petitioner was born to Tryambak (father) who was born to Pandu (grandfather) who was the son of Bhonaji (great grandfather). The petitioner has relied upon the birth extract of one son born to Pandu s/o Bhonaji on 09/07/1918 wherein caste is recorded as 'Thakur'. The said document is at record page 43, Annexure-5. The petitioner has further relied upon school leaving certificate dated 11/12/1928 in respect of Dattu, son of Pandu wherein caste is recorded as 'Thakur'. It is at record page 44, Annexure-6. The petitioner has also relied upon birth extract of one male child born to Pandu on 01/11/1933 wherein caste is recorded as 'Thakur'. It is at record page 45 (Annexure-7). It is worth to mention here that all the

aforesaid entries are pre-constitutional and have higher degree of probative value. In recent judgment dated 12/08/2025, the Hon'ble Apex Court in ***Civil Appeal No. ... of 2025 (arising out of SLP (C) No.27410 of 2024*** (Yogesh Madhav Makalwad vs. The State of Maharashtra and others) has held in para 8 thus :

“ 8. It can thus, be seen that this court held that while dealing with documentary evidence, greater reliance may be placed on pre-independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-independence documents. Insofar as the applicability of the affinity test is concerned, the Court observed that a cautious approach has to be adopted. It has been observed that a few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. It is, therefore, held that the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. It has been held that merely because the applicant does not match the tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc., it cannot be solely taken into consideration for rejecting the claim of belonging to the Scheduled Tribe.”

10. Thus, these pre-constitutional documents should have been

verified by the respondent-Committee with a greater sense of responsibility and should not have been rejected in casual manner as is done in the present case. The respondent-Committee has not at all dealt with the documents dated 11/12/1918 and 01/11/1933. It rejected document dated 07/09/1918 pertaining to the grandfather of the petitioner on the ground that when police vigilance cell tried to verify the said document, Tahsil office informed them that the record is in dilapidated condition and hence have rejected the aforesaid document. The rejection by the respondent-Committee of a pre-constitutional documents on this ground is not at all justified. The respondent-Committee has not at all given a finding that the aforesaid document is either forged or fabricated and hence it has rejected the same. In that view of matter, we hold that the Committee has not assessed the pre-constitutional document available on record in totality and omitted to consider and appreciate the important documents having higher degree of probative value and as such invalidation of the caste-claim by virtue of the impugned order is not at all justified and hence deserves to be set aside by this Court.

11. The learned Assistant Government Pleader appearing for the respondent-Committee has heavily relied upon the contra entries procured by the police vigilance cell in vigilance cell enquiry which are

reproduced in para 5 of the impugned order. So far as the document at Sr.No.1 is concerned, it is the death entry dated 06/01/1932 of Shriram, son of Pandu who is alleged to be the cousin grandfather of the petitioner where the caste is referred as 'Bhat Thakur'. The genealogical tree of the petitioner prepared by the police vigilance cell shows that Pandu had two sons viz. Dattu and Trymbak and Shriram is not the son of Pandu. Therefore, the aforesaid document pertaining to Shriram, son of Pandu is not pertaining to the paternal relative of the petitioner and his relationship is clearly denied by the petitioner. Similar is the case with document at Sr. No.3 which is the birth extract of one child viz. Janardan born on 22/01/1933 to Pandhari, son of Pandu. According to the police vigilance cell, the said document pertains to the paternal uncle of the petitioner and the caste therein is recorded as 'Marathe'. Again the said document is contradictory to the genealogical tree prepared by the police vigilance cell. Pandu had only two sons viz. Dattu and Tryambak and not Pandhari which is shown as the uncle of the petitioner and thus the aforesaid document is also not pertaining to the paternal relative of the petitioner and hence the same is rejected by this Court.

So far as document at Sr. Nos.2 and 4 are concerned, they are pertaining to the great grandmother and grandmother respectively of the petitioner wherein caste is recorded as 'Marathe'. The respondent-

Committee was not at all justified in relying upon caste entry of wife of grandfather and great grandfather of the petitioner and hence the aforesaid documents at Sr.Nos.2 and 4 also deserve to be rejected by this Court.

Last document at Sr.No.5 pertains to year 1996 which is much beyond the cut-off date of 1950 and hence is rejected by this Court on this ground alone.

12. In view of above, we hold that the respondent-Committee was not at all justified in rejecting the claim of the petitioner relying upon such contra entries which are not at all related to the petitioner. The petitioner has specifically denied relationship with aforesaid individuals in his reply dated 15/05/2023 which is at record page 66, Annexure-11. However, the respondent-Committee neither considered the aforesaid reply nor proved relationship of the aforesaid individuals with the petitioner in the context of the genealogical tree prepared by the police vigilance cell of the respondent-Committee.

13. The last limb of argument submitted by the learned Assistant Government Pleader Shri Palshikar in support of the impugned order is that the petitioner has failed to prove his affinity towards 'Thakur' Scheduled Tribe. The respondent-Committee has rejected the pre-

constitutional documents in favour of the petitioner on the ground that the petitioner has failed to prove affinity towards 'Thakur' Scheduled Tribe. However, the aforesaid issue is no longer *res integra* in view of the judgment of the Honourable Supreme Court in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and ors.* **2023 (2) MHLJ 785** where the Honourable Apex Court has held that affinity test cannot be termed as litmus test for determination of caste-claim. The Honourable Apex Court further observed that pre-constitutional documents are having more probative value and that the affinity test is not an essential part of determination process of the caste/tribe claims. Thus, in our considered opinion, the respondent-Committee was not at all justified in ignoring the several pre-constitutional documents substantiating the caste-claim of the petitioner on the ground that the affinity test could not be proved.

14. The perusal of the impugned order would also reveal that the respondent-Committee has rejected the caste-claim of the petitioner on the ground of area restriction. However, the aforesaid issue is already answered in favour of the petitioner by the Honourable Apex Court in the case of *Jaywant Dilip Pawar vs. State of Maharashtra and ors.* **2018 (5) ALL MR 975 (SCC).**

15. Thus, the respondent-Committee has failed to verify the caste-claim of the petitioner on the touchstone of the law laid down by the Honourable Supreme Court of India. Hence for the aforesaid reasons, we are of the considered opinion that the impugned order dated 04/07/2023 passed by the respondent-Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati invalidating the caste-claim of the petitioner towards 'Thakur' Scheduled Tribe is unsustainable in the eyes of law and hence deserves to be quashed and set aside. Therefore we proceed to pass the following order :

ORDER

- (i) The Writ Petition is allowed.
- (ii) The order dated 04/07/2023 passed by the respondent-Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati invalidating the caste-claim of the petitioner is hereby quashed and set aside.
- (iii) It is hereby declared that the petitioner belongs to 'Thakur' Scheduled Tribe category.
- (iv) The respondent-Committee is directed to issue the validity certificate to the petitioner towards 'Thakur' Scheduled Tribe within a period of four weeks from the date of receipt of this order.
- (v) Rule is made absolute in aforesaid terms with no order as to costs.

(Raj D. Wakode, J.)

(Smt M. S. Jawalkar, J.)