



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

WRIT PETITION NO. 934 OF 2025

PETITIONER : Yogesh S/o. Rameshpant Nichal
Age: 30 Years, Occ: Student, R/o. Ward
No.3, Kakda, Tq. Achalpur, Dist.
Amravati.

//VERSUS//

RESPONDENT : Scheduled Tribe Caste Certificate
Scrutiny Committee, Amravati
Division, Old by pass Road,
Chaprashipura Amravati, through its
Member Secretary.

Mr. A.P. Kalmegh, Advocate for the Petitioner.
Mr. A.V. Palshikar, AGP for the Respondent/State.

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

RESERVED ON : 22nd SEPTEMBER, 2025.
PRONOUNCED ON : 28th NOVEMBER, 2025.

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

Heard Mr. A.P. Kalmegh, learned counsel appearing for the petitioner, and Mr. A.V. Palshikar, learned Assistant Government Pleader for the respondent/State.

2. **RULE.** Rule made returnable forthwith. Heard finally with the consent of the learned counsels for the parties.

3. The petitioner has approached this Court seeking challenge to the order dated 04.10.2024 passed by the respondent - Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, thereby invalidating the caste claim of the petitioner towards 'Thakur' Scheduled Tribe.

4. The brief facts, leading to the filing of the present petition, are as follows:

The petitioner claims belonging to caste 'Thakur' which is recognised as Scheduled Tribe at Serial No.44 in the Constitution (Scheduled Tribes) Order, 1950. The petitioner has placed on record the scheduled tribe certificate dated 18.07.2024 issued by the Sub-Divisional Officer, Achalpur in Form "C", thereby substantiating the claim of the petitioner towards 'Thakur' Scheduled Tribe. The aforesaid certificate is at record page No.17 (Annexure-A). The petitioner is a student and was desirous of pursuing his engineering degree and hence the caste claim of the petitioner was referred by the Principal of Takshila Tantraniketan, Uttamnagar, Amravati on 03.07.2024 to the respondent - Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (hereinafter referred to as 'the Committee' for the sake of brevity).

5. The petitioner, in order to substantiate his caste claim, has relied upon the pre-constitutional documents, pertaining to his grandfather and great grandmother for the years 1937-1938 and also other documents. The respondent - Committee referred the file of the petitioner to the Police Vigilance Cell for conducting home, school and revenue enquiry. The Police Vigilance Cell conducted the enquiry and submitted the Vigilance Cell Report on 20.09.2024, which is at record page No.33. The Police Vigilance Cell had procured three documents,

which were prior to 1950, wherein the caste was recorded as 'Bhat', pertaining to the alleged paternal relatives of the petitioner. The Police Vigilance Cell also opined that the petitioner failed to prove his affinity towards 'Thakur' Scheduled Tribe. Since the aforesaid Police Vigilance Cell Report was adverse to the petitioner, the respondent - Committee issued a show cause notice to the petitioner on 20.09.2024 along with the aforesaid Vigilance Cell Report, which is at record page No.31.

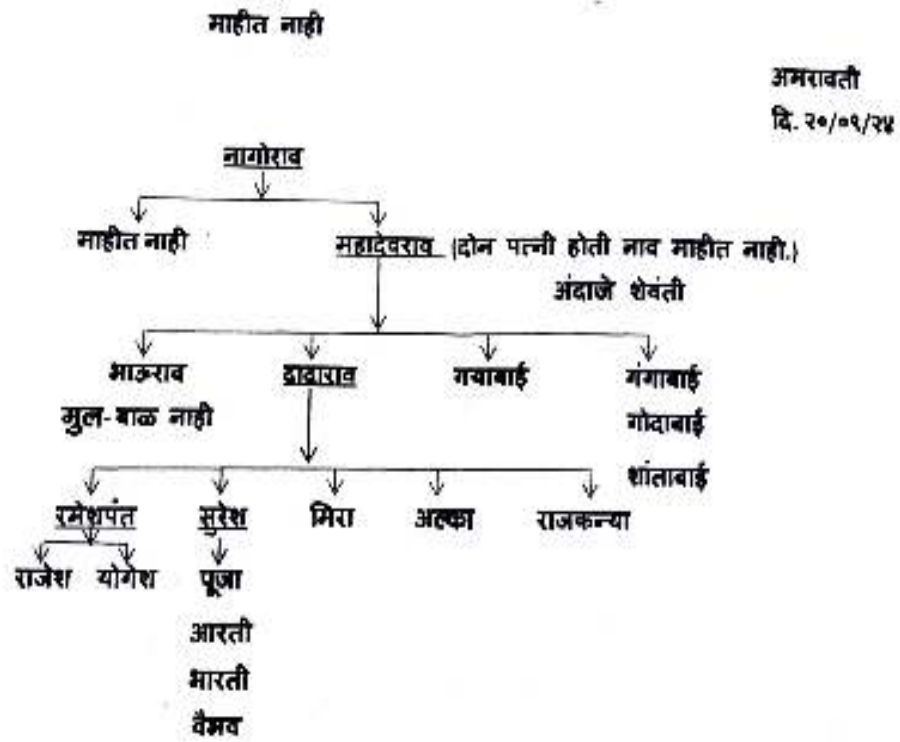
6. The petitioner, after receipt of the aforesaid show cause notice, submitted a detailed explanation, thereby explaining the aforesaid contra entries on 23.09.2024, which is at record page No.49 (Annexure-E). The respondent – Committee, after hearing the petitioner, and considering the explanation submitted, rejected the caste claim of the petitioner towards 'Thakur' Scheduled Tribe *vide* order dated 04.10.2024, which is at record page No.62 (Annexure-F). Being aggrieved by the aforesaid order, the petitioner has approached this Court by way of the present petition.

7. Mr. Kalmegh, learned counsel appearing for the petitioner, vehemently argued that the respondent - Committee was not at all justified in ignoring the pre-constitutional documents having higher degree of probative value on the basis of the contra entries of the persons, who were not at all related to the petitioner. He also submitted that the respondent - Committee has rejected the caste claim of the petitioner on the basis of affinity test and area restriction and thus violated the law settled by the Hon'ble Apex Court and hence the impugned order is unsustainable in the eyes of law and deserves to be quashed and set aside.

8. On the other hand, Mr. Palshikar, learned Assistant Government Pleader appearing for the respondent - Committee, supported the impugned order passed by the respondent - Committee. He invited our attention to the documents, pertaining to the great grandfather, cousin great grandfather, and great grandmother of the petitioner, pertaining to the pre-constitutional period, wherein the caste was recorded as 'Bhat'. He also pointed out the Vigilance Cell Report, wherein the petitioner had failed to prove his socio-cultural affinity with 'Thakur' Scheduled Tribe. He pointed out that the ordinary residence of the petitioner is in district Amravati, and the 'Thakur' Scheduled Tribes reside only in the villages and talukas of Thane, Kulaba, Nashik (only in Nashik taluka), Pune, and Ahmednagar Districts only and hence the petitioner has failed to prove his residence towards 'Thakur' Scheduled Tribe and the claim of the petitioner is hit by area restriction. Therefore, learned Assistant Government Pleader insisted that the present petition is devoid of merits and deserves to be dismissed by this Court.

9. We have heard both the learned counsels for the parties. We have perused the various documents and the original record produced by the learned Assistant Government Pleader for our perusal. We have compared the pre-constitutional documents relied upon by the petitioner from the original record of the respondent – Committee.

10. The Police Vigilance Cell, while conducting the home enquiry, has prepared the genealogical tree of the petitioner, which is at record page No.42 and is reproduced below:



11. The petitioner has relied upon as much as 12 documents, which included two pre-constitutional documents before the respondent - Committee for substantiating his caste claim. The respondent - Committee has produced the list of the aforesaid documents in paragraph 2 of the impugned order. The document at Serial No.8 is the school leaving extract of Dadarao S/o. Mahadevrao Nichal, the grandfather of the petitioner, wherein his caste is recorded as 'Thakur' on 08.04.1937. The document at Serial No.9 is the birth extract of one girl born to Mahadevrao S/o. Nagorao, the great grandfather of the petitioner, wherein her caste is recorded as 'Thakur' on 21.12.1938. It is worth to mention here that the aforesaid both the documents are pre-constitutional and are having higher degree of probative value. It is also profitable to note that the Police Vigilance Cell, while conducting the vigilance cell enquiry, has also procured the aforesaid documents by verifying the original record and has not disputed the aforesaid documents as forged or fabricated.

12. In view of above, the respondent - Committee was not at all justified in rejecting the aforesaid pre-constitutional documents on the basis of the documents having the caste entry 'Bhat', pertaining to the individuals, who were not even the paternal relatives of the petitioner. The Police Vigilance Cell has procured the documents having contra entries to the caste claim of the petitioner and the aforesaid documents were enlisted by the respondent - Committee in paragraph 4 of the impugned order. The document at Serial No.1 is the birth extract of one daughter named Mankarna born to Mahadev Nagorao on 01.11.1934, wherein her caste is recorded as 'Bhat'.

13. Mr. Kalmegh, learned counsel appearing for the petitioner, has invited our attention to the genealogical tree prepared by the Police Vigilance Cell, wherein it is evident that Mahadevrao had no daughter named 'Mankarna'. The petitioner has specifically denied his relationship with the aforesaid individual and the respondent - Committee has failed to prove the aforesaid relationship. Similar is the case with the document at Serial No.3, which is a birth extract of a son named 'Namdeo' born to Sadashiv Nagorao on 20.10.1948, wherein his caste is recorded as 'Bhat'. As per the respondent - Committee, Sadashiv Nagoro is the cousin great grandfather of the petitioner. Perusal of the genealogical tree dated 20.09.2024 prepared by the Police Vigilance Cell reveals that there is no person named 'Sadashiv Nagorao' in the family of the petitioner. The respondent - Committee has also failed to prove the relationship of Sadashiv Nagorao with the petitioner. The third document, which is at Serial No.2 is a death entry of one Sevanti wife of Mahadev, wherein her caste is recorded as 'Bhat' on 01.10.1948. The respondent - Committee, as well as the genealogical tree, alleges that said Sevanti

is the great grandmother of the petitioner. Thus, the aforesaid entry pertains to the great grandmother of the petitioner, who was born in different family and is not the paternal relative of the petitioner. It would be pertinent to refer the term 'Relative' defined in Rule 2(h) of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 (for short, the Rules of 2012) which reads thus :

“2(h) ‘Relative’ means a blood relative from paternal side of the applicant as per the genealogy, except any particular tribes which has been notified by the Government from Nomadic Tribes and any particular caste or tribes as notified by the Government from time to time.”

The aforesaid definition clearly provides a 'relative of the applicant' means a blood relative from the paternal side and hence the respondent - Committee was not at all justified in relying upon document pertaining to the great grandmother of the petitioner.

14. Thus, for the reasons aforesaid, the respondent - Committee has erroneously relied upon the aforesaid three documents in rejecting the pre-constitutional documents pertaining to the grandfather and great grandfather of the petitioner for the years 1937-1938 respectively, and hence the impugned order deserves to be quashed and set aside by this Court.

15. The respondent – Committee, while answering the issue No.2, has held that the petitioner has failed to prove his socio-cultural

affinity with 'Thakur' Scheduled Tribe. The aforesaid reason given by the respondent - Committee is also reflected in paragraph 15 of the reply filed before this Court on 06.08.2025. The aforesaid reason, in our considered view, is no more *res integra* in view of the judgment of the Hon'ble Apex Court, relied upon by the petitioner, in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and Ors. in Civil Appeal No.2502/2022***, wherein the Hon'ble Apex Court has held that the affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of correctness of a caste or tribe claim in every caste. Thus, the respondent - Committee was not at all justified in rejecting the caste claim of the petitioner on the basis of affinity test while rejecting the pre-constitutional documents having higher degree of probative value.

16. Similar is the case with the third reason on which the respondent - Committee has invalidated the caste claim of the petitioner. We find that the aforesaid reason has been elaborately discussed by the respondent - Committee in paragraph 5 of the impugned order. Mr. Kalmegh, learned counsel appearing for the petitioner, has relied upon the judgment of the Hon'ble Apex Court in ***Jaywant Dilip Pawar Vs. State of Maharashtra and Ors. (2018 (5) All MR 975)***, wherein the Hon'ble Apex Court held that, so far as area restriction of scheduled tribe in State of Maharashtra, 'Thakur' community was deleted after Amendment Act, 1976 was published and all members of 'Thakur' community are to be treated as Scheduled Tribe. Court further held that observation of Scrutiny Committee is wholly irrelevant. Applicants only to establish that they belong to community mentioned at Sr. No.44 of part-9 of second

Schedule of Amendment Act, 1976. Thus, the aforesaid reason relied upon by the respondent - Committee in rejecting the caste claim of the petitioner is unsustainable in the eyes of law and the impugned order deserves to be quashed and set aside on this ground also.

17. In the light of the above discussion, we are of the view that the petitioner has duly established that he belongs to 'Thakur' Scheduled Tribe and that the respondent - Committee has erroneously rejected the caste claim of the petitioner towards 'Thakur' Scheduled Tribe *vide* the impugned order on unsustainable grounds. Accordingly following order is passed:

ORDER

- (a) The writ petition is **allowed**.
- (b) The impugned order dated 04.10.2024 (Annexure-F) passed by the respondent – Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, in Case No.5/503/Edu/072024/282272, thereby invalidating the caste claim of the petitioner, is hereby quashed and set aside.
- (c) It is hereby held and declared that the petitioner belongs to 'Thakur' Scheduled Tribe, which is entry No.44 in the Constitution (Scheduled Tribes) Order, 1950.
- (d) The respondent – Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, is hereby directed to issue validity certificate to the petitioner towards 'Thakur' Scheduled Tribe, within a period of four weeks from the date of receipt of this order.

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

(RAJ D. WAKODE, J.)

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

Vijaykumar