



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

WRIT PETITION NO.196/2025

Ku. Muktai Jagdish Kadam (Minor),
Age : 17 years, Occ. : Student,
Through Father Jagdish Dipakrao Kadam,
Age : 45 Yrs., Occ.: Service,
R/o. Pearl Residential, 4th Floor,
In front of Kamal Plaza, 4th Floor, Plot No.403,
Dastur Nagar Road, Amravati.

...PETITIONER

VERSUS

Schedule Tribe Caste Certificate Scrutiny
Committee, Amravati Division, Old By Pass Road,
Chaprashipura Amravati,
Through its Member Secretary.

...RESPONDENT

Mr. A. P. Kalmegh, Advocate for Petitioner.
Mr. N. S. Rao, Assistant Government Pleader for Respondent.

CORAM : ANIL S. KILOR AND MRS.VRUSHALI V. JOSHI, JJ.

DATE : 07.08.2025

ORAL JUDGMENT (PER : MRS.VRUSHALI V. JOSHI, J.)

1. **Rule.** Rule made returnable forthwith and heard finally by consent of the learned Counsel appearing for the parties.

2. By this petition, the petitioner is seeking to quash and set aside the impugned order dated 03.07.2024 passed by the respondent - The Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati,

with further directions to the respondent for issuing certificate of validity in respect of petitioner's caste claim.

3. The petitioner holds a caste certificate belonging to 'Thakur' Scheduled Tribe issued by Sub-Divisional Officer, Chandur Railway, District Amravati, dated 15.06.2023. In the reply to the Vigilance Cell Report dated 07.03.2024 served upon the petitioner vide show-cause notice dated 13.03.2024 after she had submitted her proposal to the Scrutiny Committee for verification and in-turn the sole respondent forwarded it to the Vigilance Cell for further inquiry, the petitioner submitted that the adverse entries collected by the Vigilance Cell Officer are not related to her. It is the contention of the petitioner that the vigilance cell officer has drawn incorrect genealogical tree and shown Narayan as her forefather which is incorrect.

The respondent - Committee invalidated the tribe claim of the petitioner mainly on the ground that, though the documents submitted by the petitioner show entry as caste 'Thakur', but her affinity does not match with the 'Thakur' Scheduled Tribe. Moreover, it placed reliance on the document of the year 1923 of Madho Bhat.

4. Learned advocate of the petitioner, Mr. Kalmegh, submitted that, by placing reliance upon document of Madho/Madhav and

Narayan, which is not related to the petitioner, invalidated her tribe claim. The document of 1923, which shows male child born to Madho Bhat is not related to the petitioner, this fact is evident from the family tree. As Madho was having two sons (Laxman and Namdev) and one daughter (Mainabai), the school leaving certificate of Laxman and birth certificate of Namdev are already placed on record, from which it is clear that the aforesaid document of the year 1923 is not of a blood relative to the petitioner. The document of 1939, which shows a male child Shamrao born to Madho Narayan, is also not a blood relative of the petitioner. The learned Counsel for the petitioner contended that Madho, as shown in the family tree of petitioner was having two sons whose names are mentioned hereinabove, hence, from this it is clear that the document of the year of 1939 is not related to the petitioner as stated above.

It was further submitted that, the respondent-Committee committed an error in not considering the documents prior to the year 1950 related to the blood relatives of the paternal side of the petitioner, clearly showing the entries with regards to the caste as 'Thakur' Scheduled Tribe.

Learned Counsel for the petitioner Mr. Kalmegh further placed reliance on the judgment of this Court in the matter of *Ravindra Khare vs. State of Maharashtra and Ors.* reported in 2013(3) ALL MR 644, wherein it is held that, due to modernization etc., the affinity test cannot be considered as a sole criterion for determining the tribe claim of the candidates.

5. The learned Assistant Government Pleader, Mr. Rao, relied upon the findings of the Vigilance Cell Report and the order of invalidation, to vehemently oppose the arguments advanced on behalf of the petitioner.

Learned Assistant Government Pleader contended that, the documents submitted by the petitioner along with the proposal with regards to her caste claim are enlisted in paragraph No.2 of the order of invalidation dated 03.07.2024, wherein the document at serial No.15 is an affidavit sworn by the petitioner's father before the Executive Magistrate in which he has stated a partial and incomplete genealogy of his family. Since the affidavit is a document written on one's own oath for self-support, the evidentiary value of this affidavit is zero and therefore, it is not useful in proving the affiliation of the petitioner as a 'Thakur' Scheduled Tribe. As per Section 3 of the Indian Evidence Act,

1872, an affidavit is not admissible as evidence. Accordingly, the observations made by the Hon'ble Supreme Court in the following case are fully applicable in the present case.

As observed by the Hon'ble Supreme Court in Civil Appeal No. 7728/2012 filed in the case of ***Ayaaubkhan Noorkhan Pathan vs. The State of Maharashtra & Ors.*** in paragraph no.31 as under :-

"It is a settled legal proposition that an affidavit is not evidence within the meaning of Section 3 of the Indian Evidence Act, 1872 (hereinafter referred to as the 'Evidence Act')."

"Affidavits are therefore, not included within the purview of the definition of "evidence" as has been given in Section 3 of the Evidence Act, and the same can be used as "evidence" only if, for sufficient reasons, the Court passes an order under Order XIX of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC'). Thus, the filing of an affidavit of one's own statement, in one's own favour, cannot be regarded as sufficient evidence for any Court or Tribunal, on the basis of which it can come to a conclusion as regards a particular fact-situation (Vide: Sudha Devi v. M.P. Narayanan & Ors., AIR 1988 SC 1381, Range Forest Officer v. S. Hadimani, AIR 2002 SC 1147)."

6. The learned Assistant Government Pleader submitted that in the case of the petitioner, the entry 'Thakur' has been found in various documents, but mere presence of documentary 'Thakur' records do not prove that the petitioner is a 'Thakur' from the Scheduled Tribe.

Because, if the petitioner was a 'Thakur' from the Scheduled Tribe, then in the police investigation report considered in her case, the records of the caste 'Bhat' from the period 1923 to 1960 would not have been found in the revenue evidence of the petitioner and her blood relatives. Therefore, it is not proved that the blood relative of the petitioner is a 'Thakur' from the Scheduled Tribe.

7. Heard the learned Counsel for the respective parties.

8. The caste validity of the petitioner is rejected by the Scrutiny Committee on the ground that the six entries on which the Vigilance Committee has relied are of 'Bhat' and not 'Thakur' Communities. According to the Scrutiny Committee, disadvantage is taken by many persons of the similar surname. The entries which are mentioned by the Vigilance Committee are of the year 1923, 1939, 1942, 1952 and 1960. The family tree which the petitioner has provided does not bear the name of the original person as Narayan. Madho/Madhav Narayan is not related to the petitioner. According to the petitioner, the family tree is prepared by the Vigilance Committee and the signature of her father was forcibly obtained by the Committee. The family tree provided by the petitioner does not bear the name of said Narayan. Therefore, said Narayan is not related to the petitioner.

As per the reply of the petitioner to the Vigilance Cell Report, the petitioner has denied the relation with the entry mentioned by the Vigilance Committee of the year 1923 and 1939. The entry in the document of the year 1923 of the great great-grandfather is mentioned caste as 'Thakur'. All the entries mentioned before independence on which the Vigilance Committee has not considered, are of 'Thakur'. It appears that said entries are not considered and rejected by the Vigilance Committee stating that the said names are synonymous with the surname of the Scheduled Tribe Community.

9. The another ground to reject the caste claim is of the affinity test. The reason for the rejection of the caste claim is that the affinity does not match but as per the judgment in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Ors.* reported in *2023(2) Mh.L.J. 785*, the Hon'ble Apex Court has held that the affinity test is not a litmus test and the documents of pre-independence era have more probative value in the eyes of law and have to be considered.

10. In view of the abovesaid observations, the order passed by the Scrutiny Committee is required to be set aside. Hence, we pass the following order :

- I] The Writ Petition is allowed.
- II] The order passed by the Scrutiny Committee on 03.07.2024 is hereby quashed and set aside.
- III] It is declared that the petitioner belongs to “Thakur” Scheduled Tribe. The Scrutiny Committee shall issue validity certificate in favour of the petitioner within a period of four weeks from the receipt of copy of this judgment.

Rule is made absolute in the aforesaid terms. No costs.

(MRS.VRUSHALI V. JOSHI, J.)

(ANIL S. KILOR J.)