



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

WRIT PETITION NO.1782/2024

Ishrat Fatema Shaikh Ahemad,
Aged about 20 years,
Occupation : Student,
R/o. Deulghat, Tah. and
District Buldhana.

... PETITIONER

...VERSUS...

The Scheduled Tribe Caste
Certificate Scrutiny Committee,
Chaprasipura, Amravati, District-
Amravati, through its Research
Officer/Member Secretary.

...RESPONDENT

Shri R.D. Karode, Advocate for petitioner
Mrs. K.H. Bhondge, AGP for respondent/State

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

DATE OF RESERVING THE JUDGMENT : 15.09.2025
DATE OF PRONOUNCING THE JUDGMENT: 03.11.2025

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

. Heard Shri R.D. Karode, learned Counsel for the
petitioner and Mrs. Kavita Bhondge, learned AGP for
respondent/State.

2. Rule. Rule made returnable forthwith. Heard finally by the consent of learned Counsel appearing for both the parties.

3. The petitioner has approached this Court seeking challenge to the impugned order dated 29.12.2023 passed by the respondent Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, thereby invalidating the caste claim of the petitioner towards 'Bhil' Scheduled Tribe. The petitioner also seeks a declaration from this Court that the petitioner belongs to 'Bhil' Scheduled Tribe and further direction to the respondent Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, to issue a tribe validity certificate in the name of the petitioner.

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

The petitioner is claiming that she belongs to 'Muslim' religion and 'Bhil' tribe which is recognized as Scheduled Tribe at Serial No.8 in the Constitutional Scheduled Tribes Order, 1950. The petitioner is at present student in Yash Special Teacher Training Institute, Kawatha, District Washim and prosecuting her D. Ed.

Special Education Course. The caste claim of the petitioner was referred to the respondent Committee by her Junior College for verification on 27.10.2021. The copy of the proposal is placed on record by the petitioner at record page No.19, Annexure-B. The petitioner in support of her caste claim has relied upon various documents and more specifically on the pre-constitutional documents pertaining to her great-grandfather, grandfather and father spanning in the period of 1925 till 1955.

5. The respondent Committee after receipt of the proposal for verification of the caste claim of the petitioner forwarded the said claim to the vigilance cell for conducting home, school revenue and other allied inquiries in terms of Section 12 (2) of the Maharashtra Caste Certificate Act of 2001 and the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003.

6. The police vigilance cell after conducting the detailed enquiry submitted its report to the respondent Committee on 13.09.2023. Since the vigilance cell had procured certain contra

entries showing the caste of the paternal relatives of the petitioner as 'Musalman', the vigilance cell issued a show cause notice No.2825/2023 on 20.09.2023 to the petitioner thereby directing the petitioner to explain the aforesaid contra entries. The copy of the said show cause notice is placed on record page No.43 Annexure-C.

7. The petitioner after receipt of the aforesaid show cause notice submitted her reply on 04.10.2023, the copy of which is on record page No.63 Annexure-D. The respondent committee also called the petitioner for hearing which was duly attended by the petitioner along with her father and after considering the reply submitted by the petitioner and hearing of the petitioner, the respondent committee invalidated the caste claim of the petitioner towards the 'Bhil' Scheduled Tribe vide order dated 29.12.2023, which is impugned before this Court in the present Writ Petition.

8. Shri R.D. Karode, learned Counsel for petitioner vehemently argued that the petitioner in support of her tribe claim had placed on record several pre-constitutional documents, the

oldest being of the year 1925 pertaining to the paternal relatives of the petitioner where the caste is recorded as 'Bhil' Scheduled Tribe. But, the respondent Committee has erroneously rejected those documents on the grounds which are unsustainable in the eyes of law. The document dated 05.05.1925 pertaining to the great-grandfather of the petitioner was rejected on the ground that the Committee could not obtain the copy of the aforesaid document because the original record was in dilapidated condition. Shri R.D. Karode, learned Counsel for petitioner also invited our attention to the reasons recorded by the respondent Committee for rejecting the documents dated 13.07.1928 and 26.12.1955 pertaining to the great-grandfather and cousin-grandfather of the petitioner on the ground that the vigilance cell in its report dated 13.09.2023 had stated that there was a difference in ink while recording the entry and same was in different handwriting and hence the aforesaid documents are doubtful. However, the fact remains that the Committee had never referred those documents to the handwriting expert for confirming the aforesaid opinion of the police vigilance cell. The respondent Committee had also rejected the caste claim of the petitioner on the basis of affinity test which was not permissible

in view of the law laid down by the Hon'ble Apex Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others, reported in 2023 SCC OnLine SC 326 reported in 2023 (16) SCC 415.*

9. In view of the above, Shri R.D. Karode, learned Counsel for petitioner contends that the impugned order passed by the respondent Committee is erroneous and is based on perverse reasons and hence deserves to be quashed and set aside by this Court.

10. Per contra, Mrs Kavita Bhondge, learned AGP for respondent/State supported the impugned order dated 29.12.2023 passed by the respondent Committee. Learned AGP for respondent/State pointed out that the police vigilance cell when tried to verify the documents dated 05.05.1925 pertaining to the great-grandfather of the petitioner, the Tahsil Office, Buldhana, issued a communication dated 17.08.2023 stating that the concerned record was in dilapidated condition and hence, the copy could not be issued. She further invited our attention to the findings of the police

vigilance cell pertaining to the documents dated 13.07.1928 and 26.12.1925, wherein the police vigilance cell has recorded that there was difference in ink and handwriting while recording the said entry. Learned AGP for respondent/State submitted that there is overwriting and use of different inks and handwriting in relation to the caste entries and these factors created a serious doubt about said entries thereby negating the evidentiary value of these documents and entries and hence, the Committee was completely justified in rejecting these pre-constitutional documents while invalidating the caste claim of the petitioner. Learned AGP also invited our attention to the documents dated 04.07.1975 and 18.07.1984 pertaining to the paternal aunts of the petitioner wherein the caste is recorded as 'Musalman'. Learned AGP for respondent/State vehemently argued that in view of the aforesaid contra entries, the Committee was completely justified in rejecting the caste claim of the petitioner by virtue of the impugned order dated 29.12.2023 and hence, the present Writ Petition is devoid of merits and deserves to be dismissed by this Court.

11. We have heard learned Counsel appearing for the petitioner and learned AGP for the respondent/State, considered the pleadings on record and have perused the documents placed on record by the parties. The petitioner had submitted before the respondent Committee a genealogical tree in Form 3 on affidavit dated 07.09.2021. A perusal of the aforesaid genealogical tree reveals that the petitioner was born to Sheikh Ahemad Abdul Sattar, who is son of Abdul Sattar Mohammad Roshan, who in turn was born to Roshan Sheikh Mehetab Bhil. Thus Sheikh Ahemad Abdul Sattar is the father of the petitioner, Sattar Roshan is the grandfather and Roshan Sheikh Mehetab Bhil is the great grandfather of the petitioner. The aforesaid genealogical tree was duly verified by the police vigilance cell of the respondent Committee and the aforesaid relationships have not been disputed by the police vigilance cell in the vigilance cell report dated 13.09.2023. On the basis of the undisputed relationship between the petitioner and her paternal relatives, the oldest document is dated 05.05.1925 pertaining to the great-grandfather of the petitioner Sheikh Roshan Sheikh Mehetab Bhil wherein the caste is recorded 'Tadvi Bhil'. This pre-constitutional document submitted

by the petitioner has been rejected by the respondent Committee on the ground that when the vigilance cell went to the office of Tahsildar, Buldhana for verifying the aforesaid document, the Tahsil Office, Buldhana vide communication dated 17.08.2023 has informed that the record is in a dilapidated condition and hence the copy could not be supplied.

12. Similarly the petitioner had placed on record the documents dated 13.07.1928 pertaining to the great-grandfather of the petitioner and 26.12.1925 pertaining to the cousin-grandfather of the petitioner wherein the caste was recorded as 'Bhil'. However, the respondent committee had rejected the aforesaid documents on the ground that there was overwriting and usage of different Inks and handwriting in relation to the caste entries which created serious doubt about the said entries, thereby negating the evidentiary value of these documents and as such documents were rejected. The fact remains that the said conclusion was drawn by the Committee solely on the basis of the vigilance cell report. The respondent Committee though was doubtful about the handwriting and the ink in the aforesaid entries and was of the view that there

was interpolation, the genuineness of the aforesaid entries were not verified by the respondent Committee by referring the said entries to the handwriting expert.

13. The petitioner had also placed on record of the respondent Committee, the document dated 16.09.1928 pertaining to the cousin great-grandfather and the document dated 24.10.1936 pertaining to the great-grandfather of the petitioner wherein the caste was recorded as 'Bhil'. The aforesaid documents were admitted by the police vigilance cell, and there was no doubt expressed either about the genuineness or veracity of the aforesaid documents. However, the respondent Committee have clearly ignored these two pre-constitutional documents of the year 1928 and 1936 having great probative value. The respondent Committee while explaining the rejection of these pre-constitutional documents had given reasons that the petitioner has failed to prove its affinity to the characteristic of 'Bhil' Scheduled Tribe.

14. The aforesaid issue of affinity test has raised by the respondent Committee is not more *res integra* in view of the law

laid down by the Hon'ble Apex Court in the case of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (*supra*), wherein the Hon'ble Apex Court has clearly held that the affinity test is not a litmus test to decide the caste claim and is not an essential part in the process of the determination of correctness of a caste or tribe claim in every case. In view of the above law settled by the Hon'ble Apex Court, the respondent Committee was not at all justified in rejecting the pre-constitutional documents having high probative value solely on the basis of the affinity test.

15. So far as the contention raised by the respondent Committee for rejecting the document dated 05.05.1925 on the ground that the aforesaid document could not be verified and the copy of the same could not be issued because the said document was in a dilapidated condition, is also unsustainable in the eyes of law in view of the decision of this Court in ***Javedkha s/o Musakha Pathan Vs. The Scheduled Tribe Caste Certificate Scrutiny Committee, Chaprasipura, Amravati and others in writ petition No.7419/2024***. This Court while deciding the similar issue has held thus:

*“15. The petitioner in support of his submission has relied upon by the Judgment delivered by this Court in **Writ Petition No.788/2021**, wherein this Court in Para Nos. 14 and 16 observed as under :-*

"14. Now, moving to the entry of 1933, it is stated that the police vigilance cell could not find a copy of application on the record of the school, seeking 'Transfer Certificate'. The other reason for discarding the said entry was that the complete entry was not found, because the record is very old and a small corner part of the page having entry 'Hedau' relating to grand father of the petitioner, has been pulled apart or torn.

16. In the case of Anand Vs. Committee for Scrutiny and Verification of Tribe Claim, The Hon'ble Apex Court has specifically ruled that greater reliance may be placed on pre-independence documents because they furnish high degree of probative value. It is further observed that the affinity test is merely to be used to collaborate documentary evidence and it is not to be used as sole criteria for rejection of claim."

According to this Judgment, if the Committee discarded the pre-independence era documents on the count that record is very old and in a dilapidated condition and therefore could not verify the same, cannot be accepted as a valid reason. Accordingly, on the ground that the Committee failed to assess the documentary evidence by omitting to consider the important piece of evidence, remanded back the matter for fresh consideration.

*16. This Court further in **Writ Petition No.8381/2023 (Ku.Gangubai D/o Prabhakar Naitam Vrs. District Caste Certificate Scrutiny Committee and others)** decided on 23/09/2024 observed in Para No.11 as under :-*

"11. The document pertaining to year 01/07/1954, in respect of applicant's father's birth certificate clearly goes to show that on 01/07/1954, a son was born to Nilu Tirumal by name Prabhakar. This

document is the certified copy obtained by the applicant from the original. However, this document is discarded by the Caste Scrutiny Community on the ground that when letter sent to Block Development Officer for bringing the original record, the block Development Officer informed through letter that record of Nilu Tiramal is in dilapidated condition, therefore, cannot be produced before the Committee. If earlier vigilance report dated 17/01/2004 is perused, it is clearly supporting the applicant. It appears that entries of birth certificate of father of the petitioner were also duly verified by the Vigilance Cell and were reported as true and correct."

Accordingly, it is made clear that the certified copies obtained by the applicant from the original and furnished before the Committee, same needs to be considered while deciding the caste claim of the petitioner. However, in this case though the petitioner has furnished the certified copies of the pre-independence era documents obtained from the Tahsil Office, Buldhana, the same are not relied upon by the committee."

16. In view of the above, the reason given by the Committee for discarding the pre-independence era documents on the ground that the record is very old and in a dilapidated condition cannot be accepted as a valid reason. It is worth to mention here that the petitioner has placed on record at record page No.70, the certified copy of the aforesaid document dated 05.05.1925 issued by the Naib Tahsildar, Buldhana. Thus the same office who had

issued the certified copy of the aforesaid document to the petitioner was not at all justified in informing the vigilance cell of the respondent Committee that the copy of the aforesaid document could not be issued because the record was in a dilapidated condition.

17. Similarly, the reason given by the respondent Committee for rejecting the other two pre-constitutional documents i.e. the document dated 13.07.1928 pertaining to the great grandfather of the petitioner and the document dated 26.12.1955 pertaining to the cousin grandfather of the petitioner wherein caste of the petitioner was recorded as 'Bhil' on the ground that there was apprehension of interpolation of the aforesaid caste entries as vigilance cell had reported that there was difference in ink and handwriting while recording the aforesaid entries is unsustainable in the eyes of law. The respondent Committee was not at all justified in forming its opinion solely on the basis of the report submitted by the vigilance cell without referring the said entries for further confirmation of interpolation at the hands of Subject Expert.

18. The Hon'ble Supreme Court while deciding the case of ***Sayanna Vs. State of Maharashtra and others reported in (2009) 10 SCC 268*** as held thus:

“14. It is difficult for this Court to understand as to on which basis the Scrutiny Committee came to the conclusion that the word "lu" was interpolated in the register of the school more particularly when it was not so opined by the Police Inspector who had conducted the enquiry. Whether interpolation by addition has taken place can be stated by a handwriting expert or by comparison of admitted letters of a person with this disputed one. It is an admitted position that the Scrutiny Committee had never attempted to get an expert's opinion nor itself had compared the disputed letters with admitted one of the appellant.”

19. As such the Hon'ble Supreme Court of India has laid down the law that while considering the genuineness of the caste claim of the petitioner whenever there is allegation of interpolation of the entries, the expert opinion can always be obtained to clarify the said doubt. Admittedly, in the present case, the respondent Committee had not referred the aforesaid documents to the subject expert for its opinion on the aspect of interpolation or addition and has discarded the pre-constitutional documents of the years 1928 and 1955 solely on the basis of the vigilance report. In our view, the aforesaid approach adopted by the respondent Committee is against

the principle of law settled by the Hon'ble Apex Court and the impugned order dated 29.12.2023 deserves to be set aside on this ground.

20. For the reasons stated hereinabove, it is clear that the respondent Committee has failed to exercise its powers in its proper perspective and has erroneously discarded the pre-independence documents having high probative value and have rejected the caste claim of the petitioner. Hence, we are of the considered opinion that the pre-constitutional document needs reconsideration at the hands of respondent Committee and, therefore, the present matter deserves to be remanded back to the respondent Committee for fresh consideration. Hence, we pass following order:

ORDER

- i) The Writ Petition is partly allowed.
- ii) The impugned order dated 29.12.2023 passed by respondent No.1-Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati, is hereby quashed and set aside.

iii) The Tribe Claim of the petitioner is restored back to the file of the respondent Committee in the light of what is stated herein above to decide afresh.

iv) The respondent- The Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati is directed to re-consider the caste claim of the petitioner especially the pre-constitutional documents relied by the petitioner, particularly pertaining to the years 1925, 1928, 1936, 1955 and decide the caste claim of the petitioner within a period of three months from the date of receipt of the order.

21. Rule is made absolute in above terms with no order as to costs.

(RAJ D. WAKODE, J.)

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

R.S. Sahare