



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

WRIT PETITION NO. 3586 OF 2024

PETITIONER : Sanika D/o Surendra Suryawanshi,
Aged about 20 years, Occu. Student,
R/o Bhondu Layout, Near New Amravati
Railway Station, Sainagar, Amravati.

VERSUS

RESPONDENT : The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate Scrutiny,
Committee, Yavatmal.

Ms. Preeti Rane, Advocate for the petitioner
Mr. P. P. Pendke, A.G.P. for the respondent

CORAM : SMT. M. S. JAWALKAR and
M. W. CHANDWANI, JJ.

Date of Reserving Judgment : JUNE 13, 2025.

Date of Pronouncement of Judgment : JUNE 20, 2025

JUDGMENT : (Per M.W.Chandwani, J.)

1. **RULE.** Rule made returnable forthwith. By consent of the learned counsel for the parties, the matter is taken up for final disposal.

2. The caste claim of the petitioner that she belongs to 'Thakur' Scheduled Tribe came to be rejected by the respondent –

Scheduled Tribes Caste Certificate Scrutiny Committee, Yavatmal (hereinafter referred to as “the respondent-Committee” for short) vide impugned order dated 03.04.2024, which has been challenged by the petitioner in the present petition.

3. The petitioner claims that she belongs to ‘Thakur’ Scheduled Tribe, which is enlisted at Sr. No. 44 of the Scheduled Tribes Order. She forwarded a proposal to the respondent – Committee vide communication dated 24.05.2022 along her caste certificate for verification. She also annexed various documents in support of her claim including the birth register of village- Satephal having entry dated 01.09.1935 showing the caste of the great-grandfather of the petitioner as ‘Thakur’, which is the oldest document. The respondent-Committee referred her case to the Vigilance Cell for conducting necessary enquiry. On the basis of the information collected during the course of inquiry, the Vigilance Cell submitted its report *inter alia* contending that the caste of some of the relatives of the petitioner is shown as ‘Bhat’ and doubted the birth certificate of the great grandfather dated 01.09.1935. A copy of the vigilance cell report was supplied to the petitioner and personal hearing was provided to her vide impugned order dated 03.04.2024.

The respondent-Committee concluded that the petitioner failed to prove that she belongs to 'Thakur' Scheduled Tribe and rejected the caste claim of the petitioner. Aggrieved thereby, the petitioner is before this Court.

4. Heard Ms. Preeti Rane, learned counsel for the petitioner and Mr. P. P. Pendke, learned Assistant Government Pleader for the respondent. Perused the record.

5. The main contention of Ms. Rane, learned counsel for the petitioner is that, the real uncle of the petitioner has been granted the caste validity certificate by the then Caste Scrutiny Committee, Amravati after conducting a full fledged vigilance inquiry. It is also contended that the respondent-Committee failed to consider the reply of the petitioner whereby, she has stated that the relatives referred in the vigilance report are her relatives from the maternal side. According to the petitioner, caste of the maternal relatives cannot be considered while deciding the caste claim of a person. It is the caste of the parental relatives which is required to be considered while deciding the caste claim. According to the petitioner, the respondent-Committee on flimsy grounds, rejected the caste claim of the

petitioner.

6. Per contra, Mr. Pendke, learned Assistant Government Pleader appearing on behalf of the respondent-Committee has relied on the vigilance report which shows that the relatives of the petitioner belong to '*Bhat*' caste which is not a Scheduled Tribe. Therefore, he supported the impugned order passed by the respondent-Committee.

7. Perusal of the impugned order shows that the petitioner had produced various documents showing the caste of her forefathers as '*Thakur*' and the oldest document is the birth register of village Satephal, having entry dated 01.09.1935 showing the caste of great grandfather of the petitioner as '*Thakur*'. The impugned order, particularly paragraph 6 thereof, refers to the summary of the vigilance inquiry report, wherein the caste of the relatives of the petitioner is shown as '*Bhat*'. The inquiry report does not show the relation of the petitioner with those relatives. The inquiry report also refers to the documents of the maternal uncle of the petitioner showing their caste as '*Bhat*'. In the reply to the notice, the petitioner has informed that the relatives referred to in the Vigilance Cell report are the maternal relatives.

8. While deciding a caste claim, the caste of paternal side is relevant and not the caste of the maternal side. In this regard, a reference can be made to Rule 11 of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003, which provides for production of the documents having relevant entry of caste of the paternal side of the applicant. Further, a useful reference can be made to the decision of this Court in ***Heera d/o Shalikram Mundharikar .vs. Scheduled Tribe Caste Certificate Scrutiny Committee and others***¹. The relevant paragraph nos.4 and 5 read as under :

"4. Mr. S. R. Narnaware, learned Advocate for petitioner, submitted that the Vigilance Cell produced a xerox copy of the first page of the service-book of the petitioner's father issued by the Divisional Controller, MSRTC and the candidate had also submitted her father's service-book extract. According to the learned Counsel for the petitioner, there was no reason why the Vigilance Cell and the Caste Scrutiny Committee overlooked examining her father. The learned Counsel also relied on Sub-Rule (5) of Rule 12 of the Maharashtra Scheduled Tribes, (Regulation of Issuance and Verification of) Certificate Rules, 2003 which reads as follows :"

(5)The Vigilance Cell shall also examine the parents or guardian or the applicant for the purpose of verification of their Tribe, of the applicant."

We find that the order of the Scrutiny Committee is vitiated due to non-compliance of Sub-rule (5) of Rule 12. The Rule requires the Vigilance Cell to examine the parents or guardians of the applicant. The word "parents" implies both

the father and the mother. The need for examining the father as well as the mother cannot be undermined in a case of this nature. It is well-known that in a patriarchal society, caste is determined by the caste of the father. An enquiry into the candidate's caste can be best made by examining the father or others on the paternal side, such as uncles. We do not see how it is possible to produce a correct result in scrutiny without examining the father or such other relatives on the paternal side as are available. We accordingly hold that Sub-rule (5) of Rule 12 which requires the Vigilance Cell to submit a report only after examining both the parents is mandatory. We, therefore, hold that the Vigilance Cell has acted contrary to the Rules in holding the enquiry and submitting the report. The order of the Caste Scrutiny Committee rests on such a report and is, therefore, vitiated.

5. We, therefore, set aside the impugned order, remand the matter back to the Caste Scrutiny Committee with a direction that both the parents of the petitioner be examined by the Vigilance Cell and the Caste Scrutiny Committee should decide after considering the report submitted by the Vigilance Cell after such examination and pass a reasoned order.”

9. Concededly, the real uncle of the petitioner namely, Surendra Namdeo Suryawanshi has been granted the caste validity certificate of “*Thakur*” Scheduled Tribe by the then Caste Scrutiny Committee, Amravati after the Vigilance Cell conducted the inquiry. It is apt to reproduce here, the observations made by the Hon’ble Supreme Court in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samity .vs. State of Maharashtra and others***². The relevant paragraph nos.22 to 24 are reproduced below :

“22. We can also contemplate one more scenario which is found in many cases. These are the cases where the applicant relies upon caste validity certificates issued to his blood relatives. Obviously, such a validity certificate has to be issued either by the Scrutiny Committee constituted in terms of the directions issued in Kumari Madhuri Patil’s case¹ or constituted under the Rules framed under the 2000 Act. In such a case, firstly, the Scrutiny Committee must ascertain whether the certificate is genuine. Secondly, the Scrutiny Committee will have to decide whether the applicant has established that the person to whom the validity certificate relied upon by him has been issued is his blood relative. For that purpose, the applicant must establish his precise and exact relationship with the person to whom the validity certificate has been granted. Moreover, an enquiry will have to be made by the Scrutiny Committee whether the validity certificate has been granted to the blood relative of the applicant by the concerned Scrutiny Committee after holding due enquiry and following due procedure. Therefore, if the Scrutiny Committee has issued a validity certificate contemplated in terms of the decision in the case of Kumari Madhuri Patil¹, the examination will be whether the enquiry contemplated by the said decision has been held. If the certificate relied upon is issued after coming into force of the 2000 Act, the Scrutiny Committee will have to ascertain whether the concerned Scrutiny Committee had followed the procedure laid down therein as well as in the ST Rules or the SC Rules, as the case may be. For this verification, the Scrutiny Committee can exercise powers conferred on it by [Section 9\(d\)](#) by requisitioning the record of the concerned Caste Scrutiny Committee, which has issued the validity certificate to the blood relative of the applicant. If the record has been destroyed, the Scrutiny Committee can ascertain whether a due enquiry has been held on the basis of the decision of the Caste Scrutiny Committee by which caste validity has been granted to the blood relative of the applicant. If it is established that the validity certificate has been granted without holding a proper inquiry or without recording reasons, obviously, the caste scrutiny committee cannot validate the caste certificate only on the basis of such validity certificate of the blood relative.

23. In a given case, the Scrutiny Committee may be satisfied that the caste validity certificate relied upon by the applicant has been issued after making a lawful enquiry. But if the Scrutiny Committee is of the view that the applicant has not clearly established that the person to whom caste validity certificate produced on record has been granted is his blood relative, in terms of sub-rule (2) of Rule 12 of the ST Rules, the Caste Scrutiny Committee will have to refer the case for conducting an enquiry through Vigilance Cell. In such a case, the Vigilance Cell can be directed by the Scrutiny Committee to conduct an enquiry limited to the relationship claimed by the applicant with the person in whose favour the caste validity certificate has been issued. If, on the basis of the report of the Vigilance Cell, the Scrutiny Committee is satisfied that the person in whose favour caste validity certificate has been issued is a blood relative of the applicant and lawful enquiry has been conducted before issuing the validity certificate, the Scrutiny Committee will have to issue validity certificate even if the applicant does not satisfy the affinity test. For example, if it is established that the father or grandfather of the applicant has been given a caste validity certificate after holding a lawful enquiry in accordance with law, the Caste Scrutiny Committee cannot hold that the grandfather or father of the applicant, as the case may be, belongs to Scheduled Tribe but the applicant does not belong to Scheduled Tribe. Only if the relationship as pleaded by the applicant is not established, the other evidence produced by the applicant and the result of the affinity test can be taken into consideration by the Scrutiny Committee.

24. As provided in sub-rule (7) of Rule 12 of the ST Rules, the Vigilance Cell's report is not conclusive. If on the basis of the report of the Vigilance Cell and other evidence on record, the Scrutiny Committee comes to a conclusion that the caste claim is genuine, a caste validity certificate can be issued. Only on the ground that the report of vigilance cell is in favour of the applicant, validity certificate cannot be mechanically granted without application of mind. If the report of the Vigilance Cell is against the applicant, his caste claim cannot be rejected only on the basis of the report of the Vigilance Cell without providing a copy of the report to the applicant and without giving him an

opportunity of being heard on the report. After giving an opportunity to the applicant to make submissions on the report, the Scrutiny Committee may reject the caste claim. In a given case, the Scrutiny Committee can also record a finding that the caste claim is genuine. It all depends on the facts of each case.”

10. In the present case, the relation between the petitioner and her real uncle has not been disputed by the respondent-Committee. It is also a matter of record that the caste validity certificate came to be issued to the real uncle of the petitioner namely Surendra Namdev Suryawanshi on the basis of the direction issued by this Court in Writ Petition No. 196/2018 on 18.02.2020. This aspect has not been considered by the respondent-Committee and erroneously rejected the caste claim of the petitioner.

11. In view of the pre-constitutional document i.e. the extract of birth register of the son born to the great-grandfather of the petitioner on 01.09.1935 showing that he belongs to ‘Thakur’ Scheduled Tribe coupled with the fact that caste validity certificate has been issued to the real uncle of the petitioner, the impugned order of rejection of the caste claim of the petitioner on the ground that her maternal uncles/relatives belong to ‘Bhat’ caste does not sustain. We find that the petitioner has established her caste claim

that she belongs to “Thakur – Scheduled Tribe”.

12. In the result, the writ petition is allowed.

(a) The impugned order dated 03.04.2024 passed by respondent – Scheduled Tribes Caste Certificate Scrutiny Committee, Yavatmal, is hereby set aside.

(b) The claim of the petitioner for ‘Thakur’ Scheduled Tribe which is an entry at Sr. No. 44 of the Constitution (Scheduled Tribes) Order, 1950, is held to be valid.

(c) The respondent-Committee is accordingly directed to issue Caste Validity Certificate in the name of the petitioner within three weeks from the date of receipt of this order.

13. Rule is made absolute in aforesaid terms. No order as to costs.

(M.W.CHANDWANI, J.)

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

Diwale