IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9646 OF 2007

Devidas Pralhad Gaikwad]
Aged about 31 years, Occupation : Nil,]
Resident of Ukadi, Tahsil-Mehkar,]
District-Buldhana.].....Petitioner

Versus

1. Committee for Scrutiny and Verification of]
Tribe Claims]
through its Dy. Director,]
Irvin Chowk, Amravati]
]
2. Maharashtra State Electricity Board,]
through its Executive Engineer, M.S.E.B.]
Buldhana, Buldhana.].....Respondents

.....

Ms. Preeti Rane, for the Petitioner.

Ms. V. R. Raje, A.G.P., for the Respondent-State.

.....

CORAM : M. S. KARNIK &
SANDESH D.PATIL, JJ.

DATE : 15th OCTOBER 2026

P.C. :

1. **Rule**. Rule made returnable forthwith and with the consent of the parties, the matter is taken up for final hearing. Heard learned Counsel appearing for the parties.

MANISHA BALKRISHNA TALEKAR Digitally signed by MANISHA BALKRISHNA TALEKAR Date: 2026.10.19 17:28:07 +0530

2. By the present Writ Petition, the Petitioner is challenging the Order dated 27th November, 2001 passed by the Committee for Scrutiny and Verification of Tribe Claims, Amravati whereby the Caste Certificate as 'Thakur Tribe' granted to the Petitioner was rejected by the Caste Scrutiny Committee.

3. The case of the Petitioner is that the Petitioner was selected as helper in the office of Respondent No.2. He got appointed for the seat reserved for Scheduled Tribe category. The Caste Validity Certificate issued to him was invalidated by the Caste Scrutiny Committee, therefore, the Petitioner had challenged the same before the Bench at Nagpur of this Court, by way of a Writ Petition. The said Writ Petition was dismissed by this Court against which proceedings were filed before the Hon'ble Supreme Court. The Hon'ble Apex Court in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti V/s. State of Maharashtra and Ors.***[1] had passed an Order on 12th December, 2025 and has remanded back the matter. This is how, the matter is placed before us today.

4. The learned Counsel appearing for the Petitioner submitted that the Caste Scrutiny Committee was wrong in denying the claim

1 (2023) 16 SCC 415

of the Petitioner as 'Thakur Scheduled Tribe' only on the ground of affinity test. Learned Counsel for the Petitioner drew our attention to the document at 'Annexure J1' dated 20th July, 1916, wherein the caste of the great grandfather of the Petitioner *viz.* Daulat is mentioned as 'Thakur'. Learned Counsel for the Petitioner further relied upon the document at 'Annexure J2' dated 25th July, 1936, whereby the caste of the Petitioner's grandfather- Ganapati is mentioned as 'Thakur' and name of his son (Petitioner's father- Daulat) is also mentioned in the said document. The School Leaving Certificate of the Petitioner issued in the year 1999 also mentions the caste as 'Thakur'.

5. Learned Counsel for the Petitioner submitted that all the aforementioned important documents were ignored by the Caste Scrutiny Committee and merely on the basis of the affinity test, the Caste Certificate as 'Thakur Tribe' issued to the Petitioner was cancelled by the Caste Scrutiny Committee.

6. Learned Counsel appearing for the Respondent-State submitted that notwithstanding the documents placed on record by the Petitioner, the Petitioner did not satisfy the affinity test. The

test of socio-cultural affinity being *sine qua non* in light of the judgment of the Hon'ble Supreme Court in the matter of state of ***State of Maharashtra Vs. Ravi Prakash Parmar***[2], the impugned Judgment and Order was correctly passed.

7. We have heard the learned Counsel appearing for the parties. After taking into consideration the documents on record and judgment of the Hon'ble Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti V/s. State of Maharashtra and Ors. (supra)***, we are of the opinion that the documents which are at 'Annexure J1' and Annexure J2' of the Petition are undoubtedly pre-constitutional documents. The caste of the Petitioner is mentioned as 'Thakur'. These two documents are of paramount importance being of pre-constitutional period. The learned Counsel for the Respondent tried to advance an argument that the caste 'Thakur' is found in upper caste as well as lower caste, hence, it is not possible to make out as to whether the caste 'Thakur' mentioned in those two pre-constitutional documents show that the Petitioner belongs to the 'Thakur Scheduled Tribe'. We have considered this submission as well.

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2 (2007) 1 SCC 80

8. The Presidential Order i.e. the Constitution (Scheduled Tribes) Order, 1950 by which the tribe 'Thakur' was inserted as Scheduled Tribe in Entry 21 of the Tribal Community, was notified for the first time on 6th September, 1950. Before that date, there was no occasion, of there being a mention of 'Thakur' as a Scheduled Tribe. These two documents undisputedly show that the Petitioner belongs to the 'Thakur' caste. These two documents were the most important documents relevant for the purpose of deciding the subject matter in hand. As opposed to these documents, without giving any importance to these two documents, the Respondent has considered the affinity test as the litmus test. The Respondents have come to a conclusion that the Petitioner could not withstand the affinity test, and on this ground only, the caste claim of the Petitioner was rejected by the Caste Scrutiny Committee.

9. We have perused the impugned Order as well. The entire basis of the impugned Order is that the candidate could not pass the affinity test. Paragraph no.'D' of internal page no.9 of the impugned Order is elaborate in that regard.

10. The Hon'ble Supreme Court in the matter of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)*** has observed as under:

> *"**22.** It is not possible to exhaustively lay down in which cases the Scrutiny Committee must refer the case to vigilance cell. One of the tests is as laid down in Madhuri Patil [Madhuri Patil v. Commr., Tribal Development, (1994) 6 SCC 241]. It lays down that the documents of the pre-Constitution period showing the caste of the applicant and their ancestors have got the highest probative value. For example, if an applicant is able to produce authentic and genuine documents of the pre-Constitution period showing that he belongs to a tribal community, there is no reason to discard his claim as prior to 1950, there were no reservations provided to the Tribes included in the ST Order. In such a case, a reference to vigilance cell is not warranted at all.*
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> ***23.** In the impugned judgment in Civil Appeal No. 2502 of 2022 (Shilpa Vishnu Thakur case [Shilpa Vishnu Thakur v. State of Maharashtra, 2009 SCC OnLine Bom 705]), the Full Bench of the Bombay High Court has noted that people having the surname "Thakur" belong to both forward castes and various backward castes. Therefore, the Full Bench may be right in saying that in every case, only on the basis of the surname Thakur, it cannot be concluded by the Scrutiny Committee that the applicant belongs to Scheduled Tribe Thakur notified in Entry 44 of the Maharashtra List. However, we must note that in the case of a person having the surname Thakur, there may be evidence in the form of entry of the name of the caste as a Tribe or Scheduled Tribe in the land records, school or college records or any official records concerning the applicant or his ancestors. Only on the ground that the persons having the surname Thakur may belong to a forward caste as well, it is not necessary that in*

> *every case, the Scrutiny Committee should send the case to vigilance cell. It all depends on the nature of the documents produced before the Caste Scrutiny Committee and the probative value of the documents. Therefore, whenever a caste claim regarding Thakur Scheduled Tribe is considered, the Caste Scrutiny Committee in every case should not mechanically refer the case to the vigilance cell for conducting an enquiry including affinity test. The reference to the vigilance cell can be made only if the Scrutiny Committee is not satisfied with the material produced by the applicant.*
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> ***28.*** *…the affinity test cannot be applied as a litmus test. We may again note here that question of conduct of the affinity test arises only in those cases where the Scrutiny Committee is not satisfied with the material produced by the applicant."*

11. Thus, on perusal of the judgment of the Apex Court, it is clear that the documents of pre-constitutional period showing the caste of the applicant and his ancestor have got the highest probative value. It is not the case of the Respondents that these documents do not belong to the ancestors of the Petitioner, nor it is their case that these documents are not genuine documents. All that the Committee has said is that the entry 'Thakur' *ipso facto* does not show that the Petitioner belongs to Backward Class.

12. The Committee has grossly erred in relying only on the affinity test and ignoring the documents of pre-constitutional era which were relied by the Petitioner.

13. Taking into consideration the law laid down by the Hon'ble Apex Court, the impugned Judgment and Order deserves to be quashed and set aside. Hence, the following order:

ORDER

(i) Writ Petition is allowed.

(ii) The impugned Order dated 27th November, 2001 passed by the Committee for Scrutiny and Verification of Tribe Claims, Amravati is quashed and set aside.

(iii) It is declared that the Petitioner belongs to 'Thakur' Scheduled Tribe.

(iv) The Respondent is directed to be issued a Caste Validity Certificate in favor of the Petitioner as belonging to the 'Thakur Scheduled Tribe' within a period of eight weeks from today.

14. Rule is made absolute in the aforesaid terms.

15. There shall be no order as to costs.

16. In view of above, Writ Petition No.9646 of 2007 stands disposed of.

(SANDESH D. PATIL, J.) **(M. S. KARNIK, J.)**