

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL WRIT PETITION NO. 5025 OF 2024

Ghanshyam Uttam Thakur

C/o Uttam Bhikaji Thakur

Aged 35 years, Occ.: Student

Residing at P.W.D. Office Compound

Manur, Tal. Kalwan, Dist. Nashik

...Petitioner

Vs.

1. The State of Maharashtra

Through its Secretary,

Tribal Development Department,

Mantralaya Mumbai – 400 032.

2. Scheduled Tribe Certificate

Scrutiny Committee,

Nashik Division

Nashik, through its Member

Secretary having its office at Adivasi

Vikas Bhavan, Old Agra Road,

Nashik, Dist. Nashik.

...Respondents

Mr. R. K. Mendadkar - Advocate for the Petitioner

Shri N. C. Walimbe- Addl. GP a/w Shri A. K. Naik – AGP for the

Respondent-State.

**CORAM : M. S. KARNIK AND
 S. M. MODAK, JJ.**

DATE : 13th JANUARY 2026

ORAL ORDER (PER M. S. KARNIK):-

1. Heard learned counsel for the Petitioner and learned AGP.

2. It is the contention of the learned counsel for the Petitioner that the impugned order is passed without hearing the Petitioner. Furthermore, it is the contention of the learned counsel that the copy of the impugned order has not been served upon him. The copy of the impugned order was obtained as per Right to Information Act. In substance, the submission of the learned counsel for the Petitioner is that the impugned order has been passed in breach of the principles of natural justice.

3. The learned AGP on the other hand supported the impugned order. It is submitted that several notices have been issued to the Petitioner to appear. It is the Petitioner who has been absent and did not attend, when the matter was listed for hearing. As a result, the Committee had no alternative, but to pass the impugned order.

4. It is the contention of the learned counsel for the Petitioner that the Petitioner was kept in dark for almost 11 years and that he was not informed that the impugned order had already been passed. Even this aspect is controverted by learned AGP, as according to the learned AGP, the order was communicated to the Petitioner.

5. We do not really appreciate the conduct of the Petitioner in failing to appear before the Committee. At the same time, we noticed

that there are pre-constitutional documents which Petitioner is relying upon in support of the caste claim. The Scrutiny Committee has rejected the caste claim finding that the Petitioner has failed to pass the affinity test. It is settled position of law that affinity test is not a litmus test. If any authority to support the proposition is needed, we rely on the decision of the Hon'ble Supreme Court in case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and Others*¹ The Committee ought to consider the materials relied upon in support of the caste claim. The pre-constitutional documents relied upon by the Petitioner are not considered by the Committee.

6. In such view of the matter, to give opportunity to the Petitioner to substantiate his caste claim before the Scrutiny Committee, the impugned order dated 17.04.2012 is set aside. The matter is remanded back to the Scrutiny Committee for a fresh consideration on merits.

7. The Petitioner shall appear before the Scrutiny Committee on 29.01.2026 at 11.00 a.m..

8. The Petitioner to co-operate with the Scrutiny Committee and shall not ask for unnecessary adjournment.

9. The Scrutiny Committee to decide the Caste claim of the

¹ (2023) 16 SCC 415

Petitioner as expeditiously as possible preferably within six months from the date of communication of this order.

10. With the above observations, the Writ Petition is disposed of.
11. Pending interim application, if any, also stands disposed of.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)