



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

**WRIT PETITION NO. 438/2023**

Ku. Sangita D/o Ramchandra  
Pawar  
(Sau. Sangita w/o Rambhau Ingle)  
Aged about 47 yrs, Occ. Service,  
R/o At-Post – Chatari, Tah.  
Umarkhed, Distt. Yavatmal-  
445206.

**....PETITIONER**

**...VERSUS...**

1. The Vice-Chairman/Member-Secretary,  
Scheduled Tribe Caste Certificate  
Scrutiny Committee, Yavatmal.
2. The Chief Executive Officer,  
Zilla Parishad, Yavatmal.
3. The Education Officer (Primary),  
Zilla Parishad, Yavatmal.
4. The Block Education Officer,  
Panchayat Samiti Umarkhed,  
Distt. Yavatmal.

**...RESPONDENTS**

Ms Himani Kavi, Advocate for petitioner  
Shri A.M. Ghogare, AGP for respondent No.1  
Shri Amey Motlag, Advocate h/f Shri V.M. Kulsange, Advocate for  
respondent No.3

**CORAM : AVINASH G. GHAROTE AND**  
**SMT. M.S. JAWALKAR, JJ..**

**DATE OF RESERVING THE JUDGMENT: 07/05/2024**  
**DATE OF PRONOUNCING THE JUDGMENT: 09/05/2024**

**JUDGMENT (PER SMT. M.S. JAWALKAR, J.)**

Rule. Rule made returnable forthwith. Heard finally by consent of learned Counsel for the respective parties.

2. The present petition questions the order passed by the Scrutiny Committee invalidating the claim of the petitioner of belonging to 'Thakur' Scheduled Tribe. It is contention of the petitioner that petitioner belongs to 'Thakur' Scheduled Tribe which is enlisted at serial No.44 of the Scheduled Tribe Order. She has produced certificate dated 08/03/2018 issued to the petitioner by the Competent Authority. Respondent No.1 is the Caste Scrutiny Committee and respondent Nos.2, 3 and 4 are the employer of the petitioner. Petitioner in pursuant to the advertisement came to be appointed as an Assistant Teacher from Scheduled Tribe Category. Petitioner forwarded the proposal to

the Scrutiny Committee. Petitioner also forwarded relevant documents as under:

Name	Relation	Document	Date of document	Entry
Shripat Keshav Thakur (birth of one son named Madhav)	Grandfather	Birth Register (Naib Tahsildar, Umerkhed, Dist. Yavatmal)	23/09/1948	Thakur
Keshav Babaji (Thakur)	Great-grandfather	Death register (Naib Tahsildar, Umerkhed, Dist. Yavatmal)	Date of death 12/07/1942 Reported date 16/07/1942	Thakur
Ramchandra Shripat Pawar	Father	School leaving certificate	Mentioned date of birth 23/09/1949	Thakur
Shripati Keshav	Grandfather	Dakhal Kharij Register	Date of birth 24/04/1916 date of admission 09/07/1923 date of school leaving 20/02/1929	Thakur
Suman Shripatrao	Paternal aunt	Dakhal Kharij Register	Date of birth 01/07/1942 date of admission 19/06/1951 date of leaving school 14/11/1951	Thakur
Baburao Shripatrao	Uncle	Dakhal Kharij Register	Date of birth 01/07/1944 date of admission 19/06/1951 date of leaving school 20/09/1954	Thakur
Ramchand Shripat	Father	Dakhal Kharij Register	Date of birth 23/09/1949 date of admission 02/07/1955 date of leaving school 30/11/1961	Thakur

3. It is submitted that in the vigilance enquiry, the vigilance officer of the Committee had procured documents/pre-constitutional documents showing entry of 'Thakur', and the petitioner also submitted the same documents. No other entries are procured by the vigilance officer other than 'Thakur'. The Caste Scrutiny Committee invalidated the claim of the petitioner on the ground of documentary evidence, affinity, area restriction and other grounds.

4. Learned Assistant Government Pleader supported the order passed by the Caste Scrutiny Committee. There is no dispute over family tree.

5. We have heard both the parties at length, perused record and proceedings of Caste Scrutiny Committee produced by learned Assistant Government Pleader. It appears that the contention of the Caste Scrutiny Committee is that though the documents submitted by the petitioner shows her tribe, as

‘Thakur’ merely verification of the entries is not the aim of the committee. Even in support of tribe ‘Thakur’, the entry is of ‘Thakur’ only and not ‘Thakur Scheduled Tribe’. This finding of Scrutiny Committee is totally misconceived and erroneous and it appears that the same has been arrived at only for the reason to invalidate the tribe claim of the petitioner. The only entry in the Constitutional Scheduled Tribe Order is ‘Thakur’. In view of the law laid down by the this Court as well as Hon’ble Apex Court in the cases of *State of Maharashtra v/s Milind, reported in 2001 (1) Mh.L.J. (SC) 1* and *State Of Maharashtra & Ors vs. Mana Adim Jamat Mandal, AIR 2006 SC 3446*, it is evident that entry of a tribe in the list of Scheduled Tribe has to be read as it is, and no authorities including any Court, can add or subtract anything from such entry. In the present matter, approach adopted by the scrutiny committee is totally erroneous and has resulted into denying the rights accrued to be petitioner by the presidential order. It is evident from the documents placed before the Scrutiny Committee and duly verified and approved by vigilance cell that

they consistently show entry 'Thakur'. There are seven pre-constitutional documents having great probative value, which show the entry as 'Thakur'.

6. In *Mah. Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others*, reported in 2023 SCC OnLine SC 326, it is held as under:

*"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 case 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 Patil, 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."*

7. The Court also considered judgment in **Anand V. Committee for Scrutiny and Verification of Tribe Claims, (2012) 1 SCC 113**, wherein it is held as under:

“22. ....

(i) .....

(ii) *While applying the affinity test, which focuses on the ethnological connections with the Scheduled Tribe, a cautious approach has to be adopted. A few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. Hence, the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Nevertheless, the claim by an applicant that he is a part of a Scheduled Tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded on the ground that his present traits do not match his tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, etc. Thus, the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim.*”

8. In our considered opinion, when there are so many documents consistently showing the relatives of the petitioner belonging to ‘Thakur’ Community and those documents are of



pre-independence era which is having great probative value and the genealogy is not disputed, there was no reason for them to be discarded by the Caste Scrutiny Committee on the ground that these Thakurs are different than the 'Thakur' Scheduled Tribe. The appellants have only to establish that they belong to the community mentioned at Serial No.44 of Part IX of Second Schedule of the Act No.108 of 1976. The rejection of claim on the ground that the relatives of the petitioner were not residents of the area mentioned in the presidential order 1956 or they were not able to give details of customs and tradition is wholly irrelevant, specifically when there are documents of pre-independent period. In view of the settled position of law in regard that area restrictions stand removed, and due to rapid urbanisation and assimilation in the main stream, there may be discord in the customs and traditions. There is no differentiation, as such, in the list of Scheduled Tribe as stated earlier. Nobody is having authority to interpret the entry or to add or subtract anything to the entry. As such, petitioner has duly established that she belongs

to 'Thakur' Scheduled Tribe. The impugned order invalidating caste claim of the petitioner is perverse, arbitrary and capricious and same is liable to be set aside. Accordingly, we pass the following order:

**ORDER**

- i) The Writ Petition is allowed.
- ii) The order dated 29/12/2022 passed by the respondent No.1/ the Vice-Chairman/Member-Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee, Yavatmal, in Case No. 5-ST/2009-10502 is hereby set aside.
- iii) It is declared that the petitioner belongs to 'Thakur' Scheduled Tribe which is entry No.44 in the Constitution (Scheduled Tribes) Order, 1950.
- iv) The Scheduled Tribe Caste Certificate Verification Committee, Yavatmal shall issue validity certificate to the petitioner within a period of four weeks from today. Till such validity certificate is received, the

petitioner can rely upon the judgment to indicate direction has been issued for issuance of such validity certificate.

9. Rule is made absolute in above terms. No order as to costs.

**JUDGE**

**JUDGE**

*R.S. Sahare*