



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

WRIT PETITION NO. 4112 OF 2022

Aditya S/o Jivan Bansod
Aged about 19 years, Occ.Student,
R/o – Maya Colony, Risod, Taluka-Risod,
Dist.Washim

}

.. Petitioner

Versus

The Vice-Chairman/Member-Secretary
Scheduled Tribe Caste Certificate Scrutiny
Committee, Chaprashipura, Yavatmal

}

.. Respondent

Ms. Himani Kavi, with Ms.Preeti Rane, advocates for the petitioner.
Mr. N.S.Rao, Assistant Government Pleader for respondent.

**CORAM : NITIN W. SAMBRE AND
ABHAY J. MANTRI, JJ.**

RESERVED ON : 20/06/2024

PRONOUNCED ON : 22/07/2024

JUDGMENT (Per : Abhay J. Mantri J.)

Rule. Rule made returnable forthwith. Heard finally, by the consent of the learned counsel appearing for the parties.

(2) The petitioner being aggrieved by the order dated 18/05/2022 passed by the respondent Caste Scrutiny Committee (hereinafter referred to as '*the Committee*'), whereby the claim of the

petitioner that he belongs to '*Thakur*', Scheduled Tribe, came to be rejected.

(3) The petitioner claimed that he belongs to Thakur, a Scheduled Tribe. Accordingly, the Sub Divisional Officer (SDO), Risod, issued a Caste Certificate in his favour. After that, the petitioner, through Headmaster Rajarshi Shahu Junior Science College, Nizampur, Tal. Risod, District Washim, forwarded his Caste Certificate along with the relevant documents to the respondent Committee for verification.

(4) The respondent Committee was dissatisfied with the said documents and forwarded the proposal to the Vigilance Cell for a detailed inquiry. The Vigilance Cell thoroughly enquired and submitted its report to the Committee on 10/01/2022. After that, the Committee called upon him to explain the adverse entries of 'Hindu Thakur' found during the Vigilance Cell inquiry and the adverse findings about the affinity test. He appeared before the Committee and categorically denied the said adverse entries.

(5) After considering the Vigilance Cell inquiry report, explanation and other documents on record, the Committee invalidated the petitioner's claim that he belongs to 'Thakur' Scheduled

Tribe. Hence, the petitioner preferred this petition.

(6) Ms. Himani Kavi, learned Counsel appearing for the petitioner, vehemently argued that the petitioner, in support of his claim, produced 12 documents before the Committee, out of which document of the year 1941 pertains to his grandfather, wherein his caste was shown as Thakur. Also, the other two documents of 1951 and 1955 pertain to great-grandfather and cousin-grandfather, whose caste was shown as Thakur. However, without considering the said documents, the Committee has erred in holding that the petitioner failed to prove the affinity test and demonstrate that he is a resident of the area mentioned in the order where the Thakur community resides.

(7) Further learned Counsel has also claimed that the affinity test cannot be formed to be the basis for rejecting the claim, as the same cannot be termed as a litmus test. Therefore, she canvassed that the document of the year 1941 is the oldest one and it has more probative value than the documents of the year 2009, wherein the caste of the petitioner was shown as 'Hindu Thakur'. Therefore, she urged that the petitioner has demonstrated that he belongs to Thakur, a Scheduled Tribe.

(8) Apart from the above, she argued that the respondent Committee had issued a validity certificate in favour of his blood relative, Amitkumar Janardhan Bansod. Therefore, as per the law laid down in the case of **Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee and others** reported in 2010(6) Mh.L.J. 401, the petitioner is entitled to get a validity certificate.

(9) As against this, Mr. Rao, learned Assistant Government Pleader, resisted the petition on the grounds that one entry for the year 2009 depicts that the petitioner belongs to a 'Hindu Thakur'. Also, the petitioner failed to prove the affinity test. The passing of the order of the Committee is just and proper and no interference is required in it.

(10) We have appreciated the rival contentions of the learned Counsel for the parties and perused the impugned order and record.

(11) At the outset, it appears that the petitioner, in support of his claim, has produced 12 documents. Out of which one document is from the pre-constitutional era and pertains to his grandfather Atmaram. The said document is an extract of his School Admission Register dated 10/09/1941, wherein the caste of his grandfather was mentioned as '*Thakur*'. Another essential document is the validity

certificate issued in favour of his blood relative 'Amitkumar Janardhan Bansod'.

(12) It is pertinent to note that neither the Vigilance Cell nor the Committee disputed the document of 1941. Therefore, there is no reason to discard the said document. In the said document, his grandfather's caste was shown as '*Thakur*'. Similarly, the petitioner has produced other documents from 1951 to 2020 pertaining to his great-great-grandfather, cousin-grandfather, father and himself. In all the documents, their caste is shown as '*Thakur*' except for one document of the year 2009, where the caste of the petitioner is denoted as 'Hindu-Thakur.'

(13) The Hon'ble Apex Court in the case of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others (2023) SCC OnLine SC 326*** as well as other judgments has laid down the dictum that "*the document of the pre-constitutional era has got the highest probative value than the subsequent documents.*" Likewise, "*the affinity test cannot be termed as a litmus test.*" In addition, it is observed that the area restriction is removed. Therefore, the question of refusing to grant a certificate based on the finding of area restriction

is not justified. As a result, in view of the above observations, it would not be appropriate to reject the claim of the petitioner based on the affinity test only when the petitioner has furnished the details of his caste/tribe. The petitioner has furnished the pre-constitutional era document of 1941 depicting his caste as Thakur.

(14) Apart from the above, in view of the law laid down in the case of **Apoorva Nichle** (supra), the petitioner's claim ought not to have been rejected by the Committee, and the same status shall be awarded to him that he belongs to '*Thakur*,' Scheduled Tribe. Thus, it seems that the petitioner's case is covered by the law laid down in ***Mah. Adivasi Thakur Jamat*** (supra) and ***Apoorva Nichle*** (supra).

(15) Considering the discussion above, it is evident that the petitioner, to substantiate his claim, has produced the document for the year 1941 as well as, the validity certificate issued in favour of his blood relative. The document of the year 1941 has not been disputed by the Committee. Likewise, the respondent Committee has not challenged the validity certificate till this date; therefore, based on the said document, the petitioner is entitled to a validity certificate.

(16) In this background, we deem it appropriate to allow the present petition and pass the following order :-

ORDER

1. The Writ Petition stands allowed.
2. The impugned order dated 18/05/2022 passed by the respondent Committee is hereby quashed and set aside.
3. It is hereby declared that the petitioner belongs to the “Thakur” Scheduled Tribe.
4. The respondent Committee is directed to issue a validity certificate in favour of the petitioner within four weeks from the date of production of the copy of this Judgment.

(17) Rule is made absolute in the above terms. No costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)