



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

**WRIT PETITION NO. 3477 OF 2022**  
**WITH**  
**WRIT PETITION NO. 3868 OF 2022**

**WRIT PETITION NO. 3477 OF 2022**

1. Yogesh S/o Dashrath Shinde  
Aged 21 yrs, Occ Student

2. Rupesh S/o Dashrath Shinde  
Aged 23 yrs, Occ. Student

Both r/o At Post: Chinchmbapen,  
Tahsil: Risod, District: Washim

**..... PETITIONERS**

**...V E R S U S...**

1. The Vice-Chairman/Member Secretary  
Scheduled Tribe Caste  
Certificate Scrutiny Committee,  
Chaprashipura, Amravati

2. The Principal,  
Government Polytechnic College,  
Washim

3. The Principal,  
JSPM Rajashri Shahu College of  
Engineering, Tathawade,  
Pune,

4. The Commissioner,  
State Common Entrance Test Cell,  
Maharashtra State, Mumbai

5. The vice Chancellor/Registrar,  
Savitribai Fule University,  
Pune

**.....RESPONDENTS**

**WRIT PETITION NO. 3868 OF 2022**

Anuradha D/o Dashrath Shinde,  
Aged 25 yrs, Occ. Student,  
R/o. At Post Chinchambapen,  
Tahsil Risod, District Washim

..... **PETITIONER**

**...V E R S U S...**

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

.....**RESPONDENT**

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Ms. Preeti Rane, Advocate for the petitioners.

Mr. J.Y. Ghurde, Assistant Government Pleader for respondent Nos.  
1 and 2.  
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**CORAM:- NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.**

**DATE : 18.09.2024**

**JUDGMENT** (Per : Abhay J. Mantri, J.)

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

2. The challenge in both the petitions is to the impugned orders dated 20.04.2022 and 28.04.2022, passed by the respondent Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for short, -“*the Committee*”), thereby invalidating the tribe claim of the petitioners respectively. Since the petitioners in these petitions are brothers and sister who are challenging the invalidation of their

caste claim, the petitions are decided by this common judgment, with the consent of the respective parties.

3. The petitioners in Writ Petition No. 3477/2022, who are brothers, claim that they belong to the Thakur Scheduled Tribe. The competent authority accordingly issued caste certificates dated 07.03.2018 and 17.03.2018 in their favour.

4. On 28.06.2018 and 30.07.2018, through their college and school, the petitioners submitted a proposal for a grant of validity before the Committee. Being dissatisfied with the documents, the Committee forwarded the same to the Vigilance Cell for detailed enquiry. After completing the enquiry, the Vigilance Cell submitted its report on 27.06.2019. During the enquiry, the Vigilance Cell found that the School Leaving Certificate dated 10.08.1976 pertains to their father, Dashrath, whose caste was recorded as '*Hindu Thakur*'. Therefore, the Committee has called upon the petitioners to explain the adverse entry vide show cause notice dated 03.07.2019. The Committee was dissatisfied with the Vigilance Cell's report; therefore, it again forwarded the documents on 21.09.2020 to the Vigilance Cell for re-enquiry. Since 2018, the

proposal for a grant of validity has been pending with the Committee. As the petitioners were in need of a validity certificates, they approached this Court vide Writ Petition No. 2286/2020, wherein vide order dated 17.09.2020, this Court directed the Committee to decide the caste claim of the petitioners within a period of four months. After re-enquiry, on 17.11.2020, the Vigilance Cell submitted a report to the Committee. Then again, by issuing a show cause notice dated 08.12.2020, the petitioners were called upon to explain the adverse material found against them during the enquiry.

5. Petitioner Anuradha in Writ Petition No. 3868/2022 is a real sister of the petitioners in Writ Petition No. 3477/2022. On 07.03.2018, a caste certificate was issued in her favour, indicating that she belongs to the '*Thakur*' Scheduled Tribe. The petitioner was pursuing studies in B.Ed. Course. She submitted the caste certificate along with the documents to the Committee for a grant of the validity certificate. After consideration of the documents, the Committee felt it was necessary to get vigilance enquiry; therefore, they forwarded the documents to the Vigilance Cell for detailed enquiry. On 23.03.2021, the Vigilance Cell submitted its report,

conducted in the case of real brothers Yogesh and Rupesh. After appreciating the documents available on record and the Vigilance Cell Report, the Committee has rejected the claim of the petitioners, hence, this petition.

6. Ms. Rane, the learned Counsel for the petitioners, argued that the petitioners, in support of their caste claim, have produced six pre-constitutional era documents from 1916 to 1951 pertaining to their grandfather, great-grandfather and great-great-grandfather as well as cousin-grandfather in which their caste has been recorded as '*Thakur*' Scheduled Tribe. However, the Committee has not considered those pre-constitutional documents, which have more probative value than the subsequent document of 1976 in which their father's caste is recorded as '*Hindu Thakur*.' She submitted that 'Hindu' is a religion and not a caste, so said entry could not affect the petitioners' claim. She further propounded that the Hon'ble Supreme Court, in the catena of judgments, has held that the affinity test cannot be termed as a litmus test while considering caste claims.

7. *Per contra*, Mr. Ghurde, the learned Assistant Government Pleader, vehemently argued that since the entry of 1976 about the petitioners' father denoting his caste as '*Hindu Thakur*', so also, the petitioners failed to prove the affinity test. Thus, the petitioners failed to discharge the burden cast upon them in view of the provisions of Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jati), Nomadic Tribes, Other Backward Classes, and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, ( for short- *the Act 2000*). Therefore, the Committee has rightly invalidated the petitioners' claims.

8. We have appreciated the rival submissions and perused the documents on record.

9. The petitioners, to substantiate their claim, produced seventeen documents, out of which six are from the pre-constitutional era from 1916 to 1951 in relation to their grandfather, great-grandfather, and great-great-grandfather, as well as cousin-grandfather. It is pertinent to note that neither the Vigilance Cell nor the Committee have disputed these six

pre-constitutional era documents. Therefore, there is no reason to disbelieve the said documents. *Furthermore*, it is a settled legal position that “*the pre-constitutional era documents have more probative value than the subsequent documents.*” In all these six documents, ancestor’s caste has been recorded as a “***Thakur***” Schedule Tribe. However, the Committee not only relied upon the school leaving certificate dated 10.08.1976 of the petitioner's father, wherein his caste was recorded as ‘*Hindu Thakur*’, but also, on the ground of affinity test, invalidated the petitioner’s caste claim.

10. It is to be noted that ‘Hindu’ is a religion, not a caste. The pre-constitutional era documents from 1916 to 1951 denote that the petitioners' ancestors belonged to the “***Thakur***” caste; therefore, those documents have more probative value.

11. In such an eventuality, we are of the opinion that the Committee erred in discarding the caste claim based on 1976 document and the affinity test instead of six pre-constitutional documents. *Furthermore*, in the catena of judgments, the Apex Court has held that “*pre-constitutional documents have more probative value, and the affinity test cannot be termed as a litmus*

*test.*” Therefore, the findings recorded by the Committee are not sustainable in the eyes of the law and are liable to be set aside.

12. In addition to the above, the petitioners have produced the validity certificate of their relative, Pralhad Nanoba Shinde and contended that in view of the law laid down in the case of ***Apoorva D/o Vinay Nichale V/s. Divisional Caste Certificate Scrutiny Committee and others 2010(6) Mh.L.J.401***, the petitioners are entitled to get the Validity Certificates.

13. As against, the learned Assistant Government Pleader asserted that in the year 2004, the petitioner's cousin uncle namely, Vinod Rangnath Shinde, had submitted a caste claim before the Committee, which was invalidated on 16.06.2004, the said order was challenged by filing Writ Petition No. 2912/2004, which this Court has dismissed. Against the said dismissal of the writ petition, Vinod and others have preferred Special Leave Petition No. 26365/2018 before the Apex Court; it is informed that the same is still pending. Therefore, he has canvassed that based on the said order, the petitioners are not entitled to claim the relief as sought.



14. To counter, Ms. Rane strenuously argued that while considering the claim of the petitioner's uncle, no separate finding has been recorded against his caste claim in the judgment dated 01.08.2018. She has further submitted that in Writ Petition No. 7485/2022, this Court has granted relief in favour of the petitioners therein subject to the outcome of the Special Leave Petition. Therefore, she has prayed for allowing this petition.

15. It is to be noted that the learned Assistant Government Pleader fairly submitted that nothing has been discussed about the claim of the petitioner's Uncle Vinod in the said judgment, so also, no categorical finding has been recorded against the claim of Vinod.

16. Perusal of the said judgment reveals that nothing has been discussed about the petitioner's uncle Vinod's claim in the said judgment. No separate finding has been recorded against his caste claim, but solely based on the grounds of the affinity test; by an indeterminate and common judgment, the petition has been dismissed. There is no specific adverse finding recorded against Vinod's claim; hence, we found substance in the submission of Ms. Rane in that regard.

17. Having considered the above discussion, in our view, the invalidation of caste claims solely on the grounds of affinity test and the document of the year 1976 is not sustainable in the eyes of the law, specifically when the petitioners have produced six pre-constitutional era documents denoting caste of their ancestors as “*Thakur*”, which have more probative value than subsequent documents. Furthermore, the validity certificate issued in favour of the relative of the petitioner, namely Pralhad, supports the petitioner's claim; apart from that, in view of the law laid down in the case of *Apoorva Nichale* (*supra*), the petitioners are entitled to get the Validity Certificates. That being so, the petitioners have discharged the burden cast on them as contemplated under Section 8 of the Act and demonstrated that they belong to the ‘*Thakur*’ Scheduled Tribe.

18. In the aforesaid background, we are of the opinion that the committee has erred in rejecting the caste claim of the petitioners. As a result, both orders deserve to be set aside. Thus, considering the pendency of Vinod’s Case in the Supreme Court and the facts as discussed above, we deem it appropriate that the petitioners are entitled to get caste validity certificates subject to the

outcome of the Special Leave Petition pending before the Hon'ble Supreme Court. Hence, we pass the following order:

- i) The impugned orders dated 20.04.2022 and 28.04.2022 are hereby quashed and set aside.
- ii) It is declared that the petitioners have proved that they belong to the "**Thakur**" Scheduled Tribe.
- iii) The respondent Committee is directed to issue validity certificates in favour of the petitioners within six weeks from the date of production of this order.
- iv) It is made clear that the issuance of caste validity certificates in favour of the petitioners would be subject to the outcome of the Special Leave Petition No. 26365/2018, pending before the Hon'ble Apex Court.

19. Rule is made partly absolute in the above term.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)