



745-J-WP-6750-19

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

WRIT PETITION NO.6750 OF 2019

1. Raghunandan Subhash Shinde
Aged 19 years, Occ: Student,
R/o Kali Tembhi, Tahsil : Mahagaon
District : Yavatmal

2. Ku. Annapurna Subhash Shinde,
Aged 17 years, Occ : Student,
Through her legal Guardian,
Shri Subhash Tukaram Shinde
Aged 47 Years, Occ. : Agriculturist,
R/o Kali Tembhi, Tahsil : Mahagaon,
District : Yavatmal

... Petitioners

-vs-

1. Vice President,
Scheduled Tribe Caste Scrutiny Committee,
Amravati Division, Amravati

2. Vigilance Cell Officer @ Member
Schedule Tribe Caste Scrutiny Committee,
Amravati Division, Amravati

3. Member Secretary,
Schedule Tribe Caste Scrutiny Committee,
Amravati Division, Amravati

... Respondents

Shri V. N. Patre, Advocate for petitioners.

Shri I. J. Damle, Assistant Government Pleader for respondents.

CORAM : NITIN W. SAMBRE AND MRS VRUSHALI V. JOSHI, JJ.

DATE : March 06, 2025

ORAL JUDGMENT (PER : NITIN W. SAMBRE, J.)

1. **Rule.** Rule made returnable forthwith with consent of counsel
for the parties.

2. Impugned in the present petition is an order dated 09/07/2019 passed by the respondent-Scrutiny Committee, Amravati whereby the caste-certificates issued in favour of the petitioners vide certificates dated 03/07/2015 were subjected to scrutiny for issuance of validity and such claim was rejected.

3. Facts necessary for deciding the petition are as under :

The petitioners Raghunandan and Annapurna are real brother and sister who were issued caste-certificates of belonging to 'Thakur' Scheduled Tribe. Since the said certificates were used for taking benefit of admission in educational institution, it was subjected to scrutiny and such proposal was forwarded for verification in accordance with the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

4. The petitioners in support of their claim have submitted in all 33 documents of which the oldest one was of 11/10/1935 which is the birth record in relation to Ganesh Thakur. Said Ganesh Thakur is informed to be the grandfather of the petitioners.

5. The Committee since was not satisfied with the tribe-claim of

the petitioners, referred the same for verification to the Vigilance Cell for field enquiry and the Vigilance Cell accordingly submitted its report on 10/08/2018. The said report was served on the petitioners who in turn submitted their explanation on 29/11/2018 to the show cause notice dated 20/11/2018. The Committee has considered the explanation and recorded a finding that the petitioners' claim is not genuine as that of belonging to 'Thakur' Scheduled Tribe and as such same came to be rejected.

6. The contentions of Shri Patre, learned counsel appearing for the petitioners are that the oldest documents are of 1935 and onwards. According to him, even the Vigilance Cell has conducted the field enquiry and in its report dated 10/08/2018 has specifically referred to the entries of 1926, 1935 and onwards. The Vigilance Cell also collected the documents mentioning the caste entry as 'Thakur'. According to Shri Patre, the documents contained entries of 'Thakur' is also accepted by the Committee. However, he would claim that the Committee proceeded to evaluate the claim of the petitioners on the point whether the entries could be termed as belonging to Scheduled Tribe or that of other castes such as Brahmin, Maratha, Rajput, Sindhi, Kshatriya etc. According to Shri Patre, learned counsel, in view of the judgment of the Apex Court in the matter of *Maharashtra Adiwasi*

Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and ors.

2023(2) Mh.L.J 785, particularly paragraphs 20 and 32, it is not open for the Committee to evaluate the claim based on the interpretation of the caste stating as that of belonging to Scheduled Tribe or other caste. As such, he would claim that once the documents mention the entry as 'Thakur', the Committee is duty bound to evaluate the claim based on those documents without interpreting the same. His further contentions are that the affinity test is already held to be not the litmus test in the aforesaid judgment and as such on account of affinity test, the claim ought not to have been rejected.

7. As against above, Shri Damle, learned Assistant Government Pleader would invite our attention to the fact that the family members of the petitioners have taken education even in pre-independence era. He urged that the education facility was not available to the Scheduled Tribe people in pre-independence era or pre-constitutional era. They were disconnected from the main stream of the Society and were staying in isolated places such as hills, forests etc. According to him, said factum prevailed before the Committee to record a finding against the petitioners as that of not belonging to Scheduled Tribe category. Even if the caste entry in the record depict as that of 'Thakur', the learned Assistant Government Pleader would claim that it is the duty of

the Committee to apply the affinity test in the light of the provisions of the statute of 2000. That being so, he has sought dismissal of the petition.

8. We have considered the submissions.

Rightly so pointed out by both the counsel that the entire record in relation to pre-independence era depicts caste entry of 'Thakur'. The Committee thereafter proceeded to evaluate the claim on the basis whether such entries could be termed as of belonging to Scheduled Tribe category or that of advanced caste. The Committee in such an eventuality not only applied the test of affinity but has also recorded a finding based on the educational qualification of the family member/ancestors and proceeded to reject the claim. Rightly so, Shri Patre, learned counsel invited our attention to the judgment in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* (supra) so as to claim that it is not open for the Committee to interpret that the documents are not that of Scheduled Tribe but were of advanced caste of 'Thakur'. The order of the Committee so also the report of Vigilance Cell speaks of the entries 'Thakur' and not that of any other caste than 'Thakur'. As such, merely based on affinity test, such documentary evidence cannot be discarded by the Committee by recording a finding that the affinity test is not satisfied which is already

held to be not a litmus test. Further, the advancement of the family members of the petitioners has led to drawing the conclusion that they belong to advanced caste and not the Scheduled Tribe, which is impermissible.

9. In this background it has to be held that the order of the Committee cannot be said to be sustainable in the light of mandatory provisions so also the authoritative pronouncement by the Apex Court in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti* (supra).

10. That being so, the order impugned dated 09/07/2019 passed by the respondent-Scrutiny Committee, Amravati is hereby quashed and set aside.

We direct the respondent-Scrutiny Committee, Amravati to issue validity certificate to the petitioners within a period of four weeks from today.

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

All pending civil applications are disposed of accordingly.

(Mrs Vrushali V. Joshi, J.)

(Nitin W. Sambre, J.)