
(2025) 07 BOM CK 0252

In the Bombay High Court, Nagpur Bench

Case No : Writ Petition No. 1849 Of 2022 With Writ Petition No. 2360 Of 2022

Vedant S/o Dadarao Wankhade

APPELLANT

Vs

The Vice Chairman/Member-Secy., S. T. Caste Certificate
Scrutiny Committee, Chaprashipura And Ors

RESPONDENT

Date of Decision : 15-07-2025

Acts Referred:

Constitution of India, 1950 — Article 342

Citation : (2025) 07 BOM CK 0252

Hon'ble Judges : M. S. Jawalkar, J;Pravin S. Patil, J

Bench : Division Bench

Advocate : Preeti Rane, P. P. Pendke

Final Decision : Allowed

Judgement

M. S. Jawalkar, J

1. Heard. Rule. Rule made returnable forthwith.
2. Matters are taken up for final hearing at the stage of admission by consent of the parties and on request of the parties.
3. As common issue is arising in both the Petitions, they are taken up to decide together. Writ Petition No. 1849/2022 is taken as leading case for consideration of facts and other material.
4. The Petitioner in Writ Petition No.1849/2022 is the son of Petitioner in Writ Petition No.2360/2022. The Petitioner herein challenging the order passed by Respondent No.1 – Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati dated 31.12.2021 in his Caste Validity claim case. The Petitioner claims that he belongs to "Thakur" Scheduled Tribe, which is enlisted at Sr.No.44 of the Scheduled Tribes Order 1950. Accordingly, Caste Certificate to that effect dated 20.11.2019 is issued to the Petitioner by the Competent Authority. The Petitioner forwarded the proposal to the Caste Scrutiny Committee with necessary

documents on 16.12.2019. The Petitioner submitted the documents along with proposal, out of which, old documents i.e. prior to cut off date which are showing entry as "Thakur" are as follows :

- (1) Extract of birth of daughter born to Petitioner's great great grandfather namely Sampat (1912),
- (2) Extract of birth of son born to Petitioner's great great grandfather namely Sampat (1915).
- (3) Extract of birth of son born to Petitioner's great great grandfather namely Sampat (1919),
- (4) Extract of birth of daughter born to Petitioner's great grandfather namely Suplya Sampat (1932),
- (5) Extract of birth of daughter born to Petitioner's great grandfather namely Supda Sampat (1938),
- (6) Extract of birth of son born to Petitioner's cousin great great grandfather namely Bankat Wankar (1925),
- (7) Extract of death of Petitioner's cousin great great grandfather namely Bankat Omkar (1936),
- (8) Extract of death of Petitioner's great great grandfather namely Pundlik Sampat (1948),
- (9) School leaving certificate of Petitioner's great great grandfather namely Tukaram Bankat (birth mentioned as 21.5.1916) (1916/1927) dt. 6.4.2021,
- (10) School leaving certificate of Petitioner's cousin grandfather namely Manohar Shankar (birth mentioned as 5.7.1942) (1955/1956) dt. 30.11.2021 and
- (11) Extract of Dakhal Kharij Register of Petitioner's cousin grandfather namely Manohar Shankar (1942/1955/1956).

5. It is specifically submitted that the great grandfather namely Pundlik Sampat Thakur went in adoption and to that effect Adoption-deed was prepared in the year 1939. After adoption, name of great grandfather of the Petitioner namely Pundlik changed as Shankar. The copy of Adoption-deed was placed on record. The Police Vigilance Cell of the Scrutiny Committee conducted inquiry in relation to caste claim of the Petitioner and accordingly submitted its Report on 12.11.2021. The Vigilance Cell procured the same documents which are produced by the Petitioner during inquiry. Thus authenticity of the same stands proved. However, caste claim of the Petitioner invalidated vide order dated 31.12.2021 on the grounds of documentary evidence, affinity and area restriction. It is submitted by the learned Counsel for the Petitioner that the pre-constitutional documents submitted by the Petitioner and procured by the Vigilance Officer are entirely of "Thakur", which clearly reveals that the same is consistent with the Presidential Order of 1950. Being the documents prior to

1950, they bear greatest probative value in the eyes of law therefore, the same cannot be doubted and are required to be given weightage too. She further submits that in respect of area restriction and affinity test, there are so many Judgments of this Court and this issue is no more res integra. In support of her contention she relied on Anand Katole Vs. Committee for Scrutiny and Verification of Tribe Claims & Ors., reported in 2011 (6) Mh.L.J. (SC) 919.

6. It is submitted that the Caste Scrutiny Committee considered only the affinity test and rejected the documentary evidence. There is no scientific material available with regard to the traits/features of the Scheduled Tribe "Thakur". In view thereof, the Caste Scrutiny Committee was wholly unjustified in giving much weightage to the affinity part. It is further submitted that in view of the Government Resolution of 1976, the Scheduled Caste and Scheduled Tribe Order (Amendment) Act, 1976 removed the area restrictions with regard to the Scheduled Tribe order. The same was further clarified by a Circular issued by the Government of Maharashtra in the year 1977 stating that the persons belonging to the Scheduled Tribe in any area of State of Maharashtra would be eligible for getting caste certificate as belonging to that tribe since the area restrictions stands removed. The Petitioner therefore, submits that the impugned order passed by the Caste Scrutiny Committee, Amravati is patently illegal, arbitrary, unconstitutional and in contravention to the Guidelines laid down in case of Kumari Madhuri Patil Vs. Addl. Commissioner, Tribal Development, reported in (1994) 6 SCC 241.

7. Learned Counsel for the Petitioner relied on Maharashtra Adiwas Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra & Ors., reported in 2023(2) Mh.L.J. 785, wherein the Hon'ble Apex Court in para 18 held as under :

"18. Rule 12 lays down the procedure to be followed by the Scrutiny Committee. It contains a provision regarding forwarding a case to the Vigilance Cell to hold an enquiry. Rule 12 reads thus :

"12. Procedure to be followed by Scrutiny Committee.

(1) On receipt of the application, the Scrutiny Committee or a person authorised by it shall scrutinise the application, verify the information and documents furnished by the applicant, and shall acknowledge the receipt of the application. The Member Secretary shall register the application, received for verification, in the register prescribed by the Chairman.

(2) If the Scrutiny Committee is not satisfied with the documentary evidence produced by the applicant the Scrutiny Committee shall forward the applications to the Vigilance Cell for conducting the school, home and other enquiry.

(3) The Vigilance Officer shall go to the local place of residence and original place from which the applicant hails and usually resides, or in case of migration, to the town or city or place from which he originally hailed from.

(4) The Vigilance Officer shall personally verify and collect all the facts about the

social status claimed by the applicant or his parents or the guardian, as the case may be.

(5) The Vigilance Cell shall also examine the parents or guardian or the applicant for the purpose of verification of their Tribe, of the applicant.

(6) After completion of the enquiry, the Vigilance Cell shall submit its report to the Scrutiny Committee who will in turn scrutinise the report submitted by the Vigilance Cell.

(7) In case the report of Vigilance Cell is in favour of the applicant, and if the Scrutiny Committee is satisfied that the claim of the applicant is genuine and true, the Scrutiny Committee may issue the validity certificate. The validity certificate shall be issued in Form G.

(8) If the Scrutiny Committee, on the basis of the Vigilance Cell report and other documents available, is not satisfied about the claim of the applicant, the Committee shall issue a show cause notice to the applicant and also serve a copy of the report of the Vigilance Officer by registered post with acknowledgment due. A copy shall also be sent to the Head of the Department concerned, if necessary. The notice shall indicate that the representation or reply, if any, should be made within fifteen days from the date of receipt of the notice and in any case not more than thirty days from the date of receipt of the notice. In case the applicant requests for adjournment or extension of the time-limit, reasonable time, may be granted.

(9) (a) After personal hearing if the Scrutiny Committee is satisfied regarding the genuineness of the claim, Validity Certificate shall be issued in Form G.

(b) After personal hearing, if the Scrutiny Committee is not satisfied about the genuineness of the claim and correctness of the Scheduled Tribe Certificate, it shall pass an order of cancellation and of confiscation of the Certificate and communicate the same to the Competent Authority for taking necessary entries in the register and for further necessary action. The Scheduled Tribe Certificate shall then be stamped as "cancelled and confiscated.

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36.".

The above Rule provides a procedure regarding verification of caste claims, vigilance enquiry, examination of witnesses and records, report of vigilance cell and the decision of the Scrutiny Committee.

8. As against this, the learned Assistant Government Pleader for Respondent supported the order of Caste Scrutiny Committee on the ground that there were contrary entries found during vigilance and also the Petitioner failed to satisfy the affinity test. He further submits that the order passed by the Caste Scrutiny

Committee is justified, well reasoned and a detailed explanation described of each and every documents submitted by the Petitioner. In view thereof, no interference is warranted at the hands of this Court.

9. We have heard both the parties at length. Perused the impugned order and considered the citations relied on by both the parties.

10. After perusal of record produced by the learned Assistant Government Pleader of the proceedings of Caste Scrutiny Committee, it reveals that the documents placed on record by the Petitioner are duly verified by the Vigilance and same documents were procured by the Vigilance Cell. There is no dispute over the genealogy. The documents collected by the Vigilance Cell consistently shows the "Thakur" entry since 1912 to 1950. Only one entry out of 17 documents procured by the Vigilance Cell shows the entry of "Bhat" against one Bhikya @ Shankar. The Petitioner, in reply to the Vigilance Report, specifically submitted that entries in documents collected by Vigilance Cell in all 12 documents in respect of inquiry of the Petitioner, which are showing Caste "Thakur" and those were prior to 1950. He has also explained about the "Bhat" entry of Bhikya @ Shankar. It is made clear that great grandfather of the Petitioner i.e. Pundlik Sampat Thakur went in adoption on 15.03.1939 therefore, his name is changed to Shankar Suryabhan Thakur. Whereas Bhikya @ Shankar "Bhat" is the entry of 1932, on which date there was no question of this person in relation to the Petitioner by name Bhikya @ Shankar in 1939. The great grandfather of the Petitioner namely "Pundlik Sampat Thakur" given in adoption on 15.03.1939 and his name was changed to "Shankar Suryabhan Thakur". In view thereof, this name came into existence in 1939, whereas the entry of "Bhat" is about 1932, therefore, it cannot be said that Bhikya @ Shankar is in relation of the Petitioner. The Adoption-deed of 1939 was very well on record. Similarly due explanation is given about entry of "Maratha".

11. It was pointed out in reply by the Petitioner that the entry "Maratha" in school record is error as Shankar Suryabhan Thakur was poor and uneducated and working with persons from Maratha Community therefore, the entry of Manohar Shankar Thakur in Zilla Parishad School Chawara is shown as Maratha. However, thereafter Manohar Shankar left the school and again after two years when he admitted in 3rd standard in Zilla Parishad School at Bhendwal, his caste reflects as Thakur. Though there is no document pertaining to Shankar Suryabhan Thakur, however there are documents pertaining to cousin grandfather of Shankar namely Bankat and Sampat. The entries shows against their name as "Thakur". Therefore, caste "Thakur" of the father needs to be treated as caste of son. Moreover, the Petitioner placed on record the School Leaving Certificate of Zilla Parishad Marathi Prathamik Shala, Bhendwal (Annexure-12, page 40 of the Petition), wherein his date of birth is shown as 05.07.1942 and Caste is shown as "Thakur" and date of school leaving is shown as 23.07.1956. The Caste Scrutiny Committee has not considered the explanation given by the Petitioner. It was also pointed out that the answer which

were given to the Vigilance inquiry in respect of affinity test is in fact satisfied the test.

12. The learned Counsel for Petitioner relied on State of Maharashtra Vs. Milind and others reported in (2001)1 SCC 4, wherein Constitution Bench declared that the entries in Presidential orders must be read as it is. This position is also accepted by the Central Government vide Circular dated 06.11.2013, whereby they have declared the status of "Thakur" community in Maharashtra State in following words :

"The area restrictions of "Thakur or Thakar including Ka Thakur, Ka thakar, Ma Thakur, Ma thakar" communities enlisted as Scheduled Tribes in the then State of Bombay was removed, vide the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. The "Thakur, Thakar, Ka thakur, Ka Thakar, Ma Thakur, Ma Thakar" communities is listed at entry No.44 in list of the Scheduled Tribes of Maharashtra State. In terms of the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act 1976, the persons belonging to "Thakur, Thakar, Ka Thakur, Ka Thakar, Ma Thakur, Ma Thakar" Scheduled Tribe Communities are entitled to avail the benefits meant for Scheduled Tribes in the Constitution, throughout the State of Maharashtra. The Ministry of Tribal Affairs is the nodal Ministry for notification of a community as Scheduled Tribe under Article 342 of the Constitution. The responsibility for issuance and verification of Scheduled Tribes certificates/social status rests with the concerned State Government/UT Administration."

13. Similar view is taken in Palghat Jilla Thandan Samudhaya Samrakshna Samithi & Anr. Vs. State of Kerala & Anr., reported in (1994) 1 SCC 359, wherein it is specifically declared that neither the State Government nor the Court can inquire into and/or let in evidence about correctness of any entry of SC/ST in the Constitutional Orders. It has to be implemented until amended by the Parliament. Thus, the only entry in the Scheduled Tribe Order is "Thakur".

14. Thus, in view of law laid down by this Court as well as Hon'ble Apex Court, it is evident that entry of a Tribe in the list of Scheduled Tribe has to be read as it is. No Authorities including Court can add or subtract anything from said entry. In our considered opinion, the Caste Scrutiny Committee failed to give due weightage in so many pre-constitutional documents, which are having greatest probative value in the eyes of law. When there are sufficient documents placed on record by the Petitioner showing their forefathers tribe as "Thakur", it is unjustified to consider one entry of "Bhat" in respect of one Bhikya @ Shankar. The Petitioner has duly explained that great grandfather of the Petitioner i.e. Pundlik Sampat went in adoption on 15.03.1939 and his name is changed as Shankar Suryabhan Thakur, whereas entry of Bhikya @ Shankar "Bhat" is the entry of year 1932. Thus, in 1932 there was no question of Pundlik Sampat Thakur which was after adoption known as Shankar Suryabhan Thakur in 1939 to be the person in the entry of 1932.

15. In view of the Section 12 if there are satisfactory documents on record, there is no necessity to conduct the vigilance inquiry. Even documents collected in vigilance inquiry are the same documents which are produced by the Petitioner. The Petitioner answered all the questions put forth as regard of the affinity. However, the Caste Scrutiny Committee failed to considered the same in fact, in absence of any scientific material available with regard to the traits/features of the Scheduled Tribe "Thakur", the Scrutiny Committee was unjustified in giving weightage to the affinity instead of documents placed on record. There is no reason given by the Vigilance Cell or the Scrutiny Committee that answer given by the Petitioner is not satisfying test of affinity. In the present matter, the Scrutiny Committee for no valid reason rejected the documents of pre-constitutional period and documents pertaining prior to cut off date, which are having more probative value and rejected the claim of the Petitioner only on the ground of affinity.

16. The learned Counsel also placed reliance on *Shilpa Thakur Vs. State of Maharashtra*, reported in 2009(3) Mh.L.J. 995. In the said judgment according to the Full Bench, the Caste Scrutiny Committee where the affinity test is fully answered or partially answered, then the Scrutiny Committee should take decision accordingly. Even if it is partially answered, the candidates are entitled to get validity on the basis of document proved. However, it appears that the Caste Scrutiny Committee had no reason to reject the documents and also reject the validity only on the ground that there is no affinity shown with the Tribe, however, there is no infrastructure nor research material or any data characteristics of the Tribes.

17. It is contended that in the Schedule, the "Thakur" community was classified as Scheduled Tribe. In 1956, Scheduled Caste and Scheduled Tribe List (Modification) Order, 1956 were issued and "Thakur" community is shown as Scheduled Tribe with other communities. In 1976, the Scheduled Caste and Scheduled Tribe Order (Amendment) Act, 1976, removed the area restrictions with regard to the Scheduled Tribe order, which is further clarified by a Circular issued by the Government of Maharashtra in the year 1977, stating that the persons belonging to the Scheduled Tribe in any area of State of Maharashtra would be eligible for getting caste certificate as belonging to that tribe, since the area restrictions stands removed. Thus findings, of the Caste Scrutiny Committee in respect of area restrictions cannot be sustained. The affinity test is not the litmus test. Thus, both the grounds for invaliding case of the Petitioner are not sustainable in the eyes of law.

18. The learned Counsel for the Petitioner also placed reliance on the Judgment of this Court in Writ Petition No.4806/2015, *Pralima Vishram Thakar & Ors. Vs. The State of Maharashtra & Ors.*, decided on 04th October, 2019, wherein it is held that :

"10. Perusal of the order of the Committee reflect that it has failed to apply any of the aforesaid parameters and merely on the ground that in case of Thakur/

Thakar Tribe, there are non-tribal Thakurs who belong to forward caste, the oldest document in favour of the petitioners where the caste is recorded as Hindu Thakar as early as in the year 1927 has been ignored. The Committee has failed to consider the probative value attached to a pre-constitutional document, recording the caste "Thakar" prior to the issuance of the Scheduled Tribe Order, 1950 when the ancestors of the petitioners were not posterous that after the Constitution comes into force, the people belonging to Thakar community would be conferred with the status of Scheduled Tribe. The entry found in the school record of the grand-father of the petitioners came to be recorded in its natural way and that it why it has great probative value. Presumptive on this count, the non-consideration of the relevant documents by the Scrutiny Committee reduces the order of the committee to a perversity and calls for an interference in exercise of our writ jurisdiction".

In the present matter also similar view is taken by the Caste Scrutiny Committee, which is unjustified.

19. The learned Counsel for Petitioner also placed reliance on Anand Vs. Committee for Scrutiny and Verification of Tribe Claims, reported in (2012) 1 SCC 113, wherein the Hon'ble Apex Court held in paragraph No.12 as under :

"22. (i) While dealing with documentary evidence, greater reliance may be placed on pre-Independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. In case the applicant is the first generation ever to attend school, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim. In fact, the mere fact that he is the first generation ever to attend school, some benefit of doubt in favour of the applicant may be given. Needless to add that in the event of a doubt on the credibility of a document, its veracity has to be tested on the basis of oral evidence, for which an opportunity has to be afforded to the applicant;

(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, modernization 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."

20. In spite of settled law position, the Caste Scrutiny Committee bent upon to invalidate the caste claim of the Petitioner. There is no findings on the documents showing Tribe "Thakur", which are prior to the said Tribe, included in Scheduled Tribe List. The Caste Scrutiny Committee has also not applied its mind to the explanation given by the Petitioner. Even if the Scrutiny Committee relied on such entry of "Bhat" of 1932, the Caste Scrutiny Committee has to be established that the said person is in relation of the Petitioner. We are most unhappy as such state of affairs, for this is not a single case in which the Committee has acted in this manner. We have been noting that though validative pronouncement by the Hon'ble Supreme Court of India and this Court, the Committee has acting contrary to the guidelines and disbelieving the documents which are prior to 1950 by discarding thereby valid claim of the Petitioner. The Committee creating situation of one person being Scheduled Tribe to another person from genealogy not entitled to claim the said status. The Committee is acting contrary to the mandate of the Constitution of India as well as directions issued by this Court as well as the Hon'ble Apex Court. The conduct of the Committee Members in fact cause for litigation and dragging the litigant and even Government machinery to the Court, even when the issue is covered by the Judgment of this Court. This tendency of the Committee repeatedly flouting orders and directions of this Court is not only contemptuous but unjustified and Committee members should take serious note of it. As such, we pass the following order :

(i) The Writ Petition Nos.1849/2022 and 2360/2022 are allowed.

(ii) The impugned order dated 31.12.2021, passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati in the matter of Petitioner Vedant S/o Dadarao Wankhade and in the matter of Petitioner Dadarao S/o Sonaji Wankhade, is hereby quashed and set aside.

(iii) The Petitioners have duly established that they belong to "Thakur" Scheduled Tribe. The Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati shall issue Caste Validity Certificate to the Petitioner in Writ Petition No.1849/2022 - Vedant S/o Dadarao Wankhade and Petitioner in Writ Petition No.2360/2022 - Dadarao S/o Sonaji Wankhade, as they belongs to "Thakur" Scheduled Tribe within a period of two weeks from today.

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