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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9741 OF 2007

Ku. Jyoti d/o Tulshiramji Donge,)
aged about 35 years, Occu. : Service,)
R/o Jalgaon Jamod,)
District : Buldhana.).....Petitioner

Versus

1. Municipal Council)
Jalgaon Jamod, Dist. - Buldhana)
Through its Chief Officer,)
2. The Committee for Scrutiny & Verification of)
Tribe Claims, Amravati.).....Respondents

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Mr. R.K.Mendadkar a/w Mrs. Priyanka Shaw, for the Petitioner.

Ms. V.R.Raje, A.G.P, for the Respondents.

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**CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.**

RESERVED ON : 17th SEPTEMBER 2026

PRONOUNCED ON : 24th SEPTEMBER 2026

JUDGMENT (PER SANDESH D. PATIL, J.)

1. By way of the present petition, the petitioner has challenged the legality, validity, and propriety of the order dated 24th December, 2004 passed by the respondent No. 2/Committee thereby invalidating the Caste Certificate dated 4th August, 1988 of the petitioner as belonging to Thakur Scheduled Tribe.

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2. The petitioner had preferred a writ petition before the Nagpur Bench of this Court. Vide Judgment and Order dated 1st August, 2018 passed by the Division Bench (Coram : B. P. Dharmadhikari and Z. A. Haq JJ.), this petition alongwith a group of other petitions were dismissed. The Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti thereafter preferred appeals before the Supreme Court of India. The Supreme Court of India set aside the Judgment and order passed by the Division Bench of this Court and directed the Registry to place the matter before the Court for deciding the case individually. This is how the matter has been placed before this Court.

3. The learned Counsel appearing for the petitioner relied upon the record of Kotwal Register in case of great-grandfather of the petitioner namely Tukaram Ramu, where the Caste is recorded as Thakur. This certificate was granted on 3rd December, 2013. The record of Kotwal Register in case of grandfather of the petitioner, namely Chandrabhan Tukaram, was also relied upon. This record is of 14th March, 1944 where the caste is duly recorded as 'Thakur'.

4. The school admission register in case of the father of the

petitioner by name Tulshiram Chandrabhan is relied upon where the caste is recorded as 'Thakur'. This is the document of 13th April, 1949.

5. The learned Counsel Mr. Mendadkar relied upon the Police Vigilance Cell Report in the case of petitioner. This document is of 12th November, 2001. The Caste Certificate of the petitioner was invalidated on 29th December, 1997. The petitioner had filed Writ Petition No. 696 of 1998 challenging the order passed by the respondent No. 2/Committee. That writ petition was allowed vide order dated 27th December, 1998 and the matter was remanded back to the respondent No. 2/Committee. In the second round of litigation, the Caste Certificate of the petitioner was once again invalidated on 18th March, 2002 on the ground of affinity test only. Being aggrieved and dissatisfied with the same, the petitioner filed the Writ Petition bearing No. 1887 of 2002 challenging the order passed by the respondent No. 2/Committee dated 18th March, 2002. That petition was also allowed and the matter was remanded back to the respondent No. 2 to decide the issue afresh.

6. In the third round of litigation, the committee was once again

passed the impugned order thereby invalidating the caste claim of the petitioner vide order dated 24th December, 2004. It is the contention of the learned Counsel appearing for the petitioner that affinity test is not the litmus test to decide the caste claim and it is not an essential part for the process of determination of correctness of Tribe/Caste claim in every case. He would rely upon the judgment of the Apex Court in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti v. State of Maharashtra & Ors.*¹. He submitted that the impugned order is principally based on affinity test and therefore contrary to the judgment of the Supreme Court. He submitted that the petitioner has filed school record in relation to this, her great-grandfather, grandfather and father from the paternal side showing their tribe recorded as 'Thakur' right from the year 1930. He submitted that since the case of the petitioner is supported by pre-constitutional documents, those documents should be given great weightage and that invalidating the caste claim certificate of the petitioner only on the ground of affinity test was perverse. He prayed for allowing the petition.

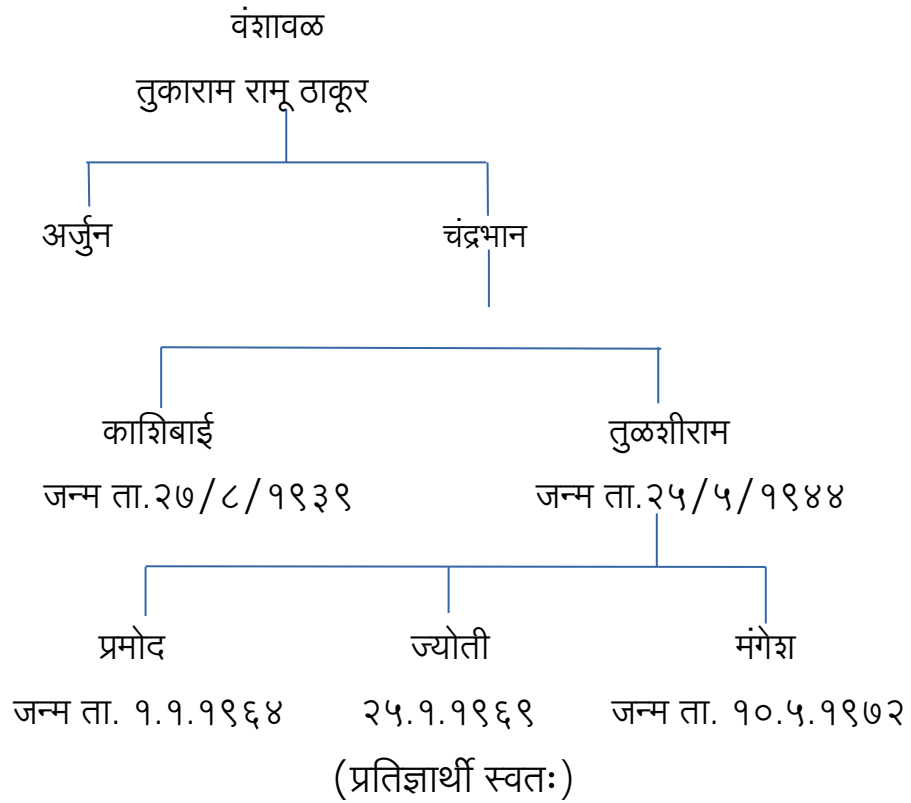
7. The learned Counsel appearing for the respondents on the

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other hand opposed the petition. The learned Counsel appearing for the respondent submitted that the petitioner has failed in the affinity test. He stated that the documents which are relied upon by the petitioner cannot be considered for the purpose of granting the caste claim validly. He contended that the information given by the petitioner was self-contradictory.

8. He relied upon the findings in the impugned order to show that the case of the petitioner deserves to be dismissed. He prayed for dismissal of the petition.

9. We have heard the learned Counsel appearing for the parties. We have perused the material on record. The learned Counsel Mr. Mendadkar, at the outset, invited our attention to the family tree of the petitioner. We have perused the family tree of the petitioner which is a part of record in this petition and duly verified by the Vigilance Committee. The following is the family tree as supplied by the petitioner to the Committee:



Upon perusal of the family tree, it is clear that Tukaram Ramu Thakur was the great-grandfather of the petitioner. Her grandfather was Chandrabhan and her father is Tulshiram. With these relations as are evident from the family tree, we proceed to consider the documents submitted by the petitioner. The first document is the birth and death extract of Tukaram Ramu Thakur which is of 3rd December, 1913. The name of the great-grandfather of the petitioner by name Tukaram Ramu is shown and the caste mentioned is 'Thakur'. Thereafter, the next document is the birth and death extract of the year 1944 of the grandfather of the petitioner by name

Chandrabhan. This document shows that the name of the grandfather of the petitioner is Chandrabhan Tukaram and the Caste mentioned is 'Thakur'.

10. The Transfer Certificate issued by the Headmaster of the Zilla Parishad Marathi Primary School, Shegaon, Buldhana shows that the father of the petitioner, namely Tulshiram Chandrabhan Donge, was studying in the said school and that he left the school on 30th April 1958. The caste of Tulshiram is mentioned as 'Thakur'. It mentions that the father of the petitioner was studying in the said school from 12th April 1950 to 29th April 1958.

11. There is yet another document which shows that the grandfather of the petitioner, by name Chandrabhan Tukaram Donge, had filed an affidavit while admitting his son to the school wherein it is stated that his son Tulshiram was born on 25th May 1944 and his caste is 'Thakur'. This document is of 13th April 1949.

12. These in nutshell are the documents which were before the Caste Scrutiny Committee. In the impugned order passed by the Caste Scrutiny Committee on 24th December 2005, the Caste Scrutiny

Committee has basically relied upon the Vigilance Cell Report.

13. The Committee observed that although the documents submitted by the candidates show the caste entries as 'Thakur', the candidate and her relatives are not in a position to explain the characteristics and trades of their caste to the Committee and could not prove their affinity towards 'Thakur Scheduled Tribe'.

14. The Committee had verified the caste claim. The Scrutiny Committee conducted the home inquiry through Vigilance Cell Officer. The Committee observed that the inquiry report and affinity test clearly showed that the candidate did not belong to 'Thakur Scheduled Tribe'.

15. The Committee proceeded on the footing that the entry 'Thakur' does not prove that the petitioner belongs to 'Thakur Scheduled Tribe' and hence, affinity test was conducted. Thus, the Committee has not discarded the documents which are produced on record. The only reasoning given by the Committee is that the entry 'Thakur' could not prove that the petitioner belongs to the 'Thakur Scheduled Tribe'.

16. In this connection, it is necessary to refer to the judgment of the Hon'ble Supreme Court in the matter of the ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)***.

17. The Hon'ble Supreme Court in paragraph numbers 20 and 21 has observed thus:

“20. It is not possible to exhaustively lay down in which cases the Scrutiny Committee must refer the case to Vigilance Cell. One of the tests is as laid down in the case of Kumari Madhuri Patil (1994) 6 SCC 241. It lays down that the documents of the pre-Constitution period showing the caste of the applicant and their ancestors have got the highest probative value. For example, if an applicant is able to produce authentic and genuine documents of the pre-Constitution period showing that he belongs to a tribal community, there is no reason to discard his claim as prior to 1950, there were no reservations provided to the Tribes included in the ST order. In such a case, a reference to Vigilance Cell is not warranted at all.

21. In the impugned judgment in Civil Appeal No. 2502 of 2022 [Shilpa Vishnu Thakur's case² (2009) 3 Mah.LJ 995 (F.B.)], the Full Bench of the Bombay High Court has noted that people having the surname "Thakur" belong to both forward castes and various backward castes. Therefore, the Full Bench may be right in saying that in every case, only on the basis of the surname Thakur, it cannot be concluded by the Scrutiny Committee that the applicant belongs to Scheduled Tribe Thakur notified in

the Entry 44 of the Maharashtra list. However, we must note that in the case of a person having the surname Thakur, there may be evidence in the form of entry of the name of the caste as a Tribe or Scheduled Tribe in the land records, school or college records or any official records concerning the applicant or his ancestors. Only on the ground that the persons having the surname Thakur may belong to a forward caste as well, it is not necessary that in every case, the Scrutiny Committee should send the case to Vigilance Cell. It all depends on the nature of the documents produced before the Caste Scrutiny Committee and the probative value of the documents. Therefore, whenever a caste claim regarding Thakur Scheduled Tribe is considered, the Caste Scrutiny Committee in every case should not mechanically refer the case to the Vigilance Cell for conducting an enquiry including affinity test. The reference to the Vigilance Cell can be made only if the Scrutiny Committee is not satisfied with the material produced by the applicant.”

18. Thus, on perusal of the judgment of the Apex Court, it is clear that the documents of pre-constitutional period showing the caste of the applicant and his ancestor have got the highest probative value. It is not the case of the respondents that these documents do not belong to the ancestors of the petitioner, nor it is their case that these documents are not genuine documents. All that the Committee has said is that the entry ‘Thakur’ *ipso facto* does not show that the entry belongs to Backward Class.

19. Once there are documents which show that the caste of the petitioner's great-grandfather, grandfather, and petitioner's father is mentioned as 'Thakur', then those documents were having highest probative value and that only on the ground that affinity test was not applied, was no reason to discard the caste claim of the petitioner.

20. The Hon'ble Supreme Court while deciding the matter in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)* observed that, only on the ground that the persons having the surname 'Thakur' may belong to a forward caste as well was not sufficient to send the case to Vigilance Cell.

21. The Hon'ble Supreme Court in the matter of *Anand v. Committee for Scrutiny and Verification of Tribe Claims and Others*², has held that the affinity test is not a litmus test and the documents of pre-constitutional era have got highest probative value in the eyes of law.

22. The Committee has grossly erred in relying only on the affinity test and ignoring the documents of pre-constitutional era which were relied by the petitioner.

² (2012) 1 SCC 113

23. In the present case, the Caste Scrutiny Committee while exercising the power as a quasi-judicial authority, has committed a serious jurisdictional error by relying upon the affinity test only and discarding the pre-constitutional documents, which show the caste of the petitioner as 'Thakur'.

24. The Division Bench of this Court at Aurangabad in the judgment passed in the matter of ***Abasaheb s/o Gulabrao Thakur v. The State of Maharashtra & Ors. decided on 25th February, 2026 in Writ Petition No.7472 of 2021***, has after relying upon the judgement of *Lahu Dashrath Thakur vs. Scheduled Tribe Certificate Scrutiny Committee, Nandurbar Region Nandurbar and others decided on 11.03.2025 in Writ Petition No.9283 of 2012* and also replying on the judgement of the Division Bench of this Court in the matter of *Ravindra Pralhadrao Khare vs. State of Maharashtra and Ors. in Writ Petition No. 11241 of 2012*, has taken a view that there can be no such entries made in the year 1947-1948 indicating the word 'Thakur Scheduled Tribe'.

25. The Constitution (Scheduled Tribes) Order, 1950 which was issued by a notification dated 6th September 1950, for the first time included the caste 'Thakur' in Entry 21 of the Tribal Community.

There was, therefore, no occasion that the word 'Thakur' in 'Thakur Schedule Tribe' could be mentioned in the pre-constitutional document. In this premise, it is highly impossible that there would be mention of the word 'Thakur Scheduled Tribe' in any pre-constitutional documents. The Court has also taken a view that unless until there is some document to show that the petitioner belongs to the upper caste, it would not be proper to reject the case of the petitioner because the word 'Thakur Scheduled Tribe' is not mentioned in the entry of caste. In absence of any material to show that the petitioner belongs to the upper caste 'Thakur', it would not be proper to reject the caste claim of the petitioner.

26. Taking into consideration the law laid down by the Hon'ble Apex Court, the impugned Judgment and Order deserves to be quashed and set aside. We further declare that the petitioner belongs to the 'Thakur Scheduled Tribe'. Hence, the following order:

ORDER

- (i) The impugned Judgment and Order dated 24th December, 2004 passed by the Scrutiny Committee is hereby quashed and

set aside.

(ii) The respondent is directed to be issued a Caste Validity Certificate in favor of the petitioner as belonging to the 'Thakur Scheduled Tribe' within a period of eight weeks from today.

(iii) Writ petition No.9741 of 2007 is disposed of accordingly.

(SANDESH D. PATIL, J.)

(M. S. KARNIK, J.)