

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

WRIT PETITION NO. 11 OF 2017

Pankaj Sitaram Bharde,
aged 22 years, Occ. Student,
R/o. Madgi, Tah. Tumsar,
Distt. Bhandara.

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PETITIONER

...VERSUS...

- 1] The Directorate of Technical Education,
Maharashtra State, Mumbai
- 2] The Principal,
Marathwada Mitra Mandal
Institute of Technology,
Lohagaon, Pune.
- 3] The Vice-Chancellor/Registrar,
Savitribai Fule Pune University,
Pune.
- 4] The Scheduled Tribe Caste
Certificate Scrutiny Committee,
Adiwasi Vikas Bhavan, Giripeth,
Nagpur through its Chairman

RESPONDENTS

Ms. P.D.Rane, Advocate for petitioner
Ms. N.P.Mehta, AGP for respondent Nos. 1 and 4

CORAM: R. K. DESHPANDE, AND
VINAY JOSHI, JJ.
DATE : 25th FEBRUARY, 2019 .

ORAL JUDGMENT (P.C.)

- 1] Rule made returnable forthwith.

Heard finally by consent of the learned counsels appearing for the parties.

2] The challenge in this petition is to the order dated 21.10.2016 passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur, invalidating the claim of the petitioner for 'Mana-Scheduled Tribe' which is an entry in the cluster of Tribes at Sr.No.18 in the Constitution (Scheduled Tribes) Order, 1950. The Committee has relied upon certain documents in which the caste of the blood relatives of the petitioner is recorded as 'Mani' or 'Mane' and it is held that the petitioner has failed to establish the claim for 'Mana – Scheduled Tribe'.

3] On 30.12.2016, this Court issued notice and granted interim relief. During the pendency of this petition, the Committee re-examined the claim of the petitioner and decided to issue validity certificate on 06.10.2018. Accordingly, the order is passed based upon the old documents of 1915-16 and 1925 in the name of the blood relatives of the petitioner recording caste as 'Mana' in the revenue record and the agreement of land. The Committee

relied upon the validity certificate issued in the name of Manish, real brother of the petitioner on 24.07.2009.

4] On 11.02.2019, when we heard the matter, the order was passed as under;

"We are informed that pending the decision of this petition, the Scrutiny Committee has issued the validity certificate to the petitioner. We are unable to understand the power which the Committee has exercised in reviewing or recalling its own order, invalidating the tribe claim of the petitioner and then again validating it in favour of the petitioner. Once the Committee decides the matter, the order attains the finality and it becomes functus officio. The order of invalidation can only be set aside by this Court in exercise of the jurisdiction under Article 226 of the Constitution of India.

Though it seems that the order of granting validity certificate is in the interest of the claimant, it may act on some occasions, against his interest. The Committee has no jurisdiction to recall or review its order of invalidation, and in such a situation, if the validity certificate is issued, an inconsistent and anomalous situation arises. The order of invalidation stands as it is so also the validity certificate. If the grant of validity certificate is challenged by filing a writ petition under Article 226 of the Constitution of India, then the claimant may not be left with any remedy in given cases but to accept the order of invalidation, which may be against his own interest.

It is from the aforesaid point of view, we call upon the respondents to file an affidavit giving the provisions under which this exercise has been carried out. If the Committee can point any such power conferred upon it, then the matter would be altogether different. We have expressed this prima facie view, which shall be subject to the adjudication after filing of the affidavit by the Committee.

We would also like to know the reasons, if any, recorded while issuing the caste validity certificate in the present matter.

Put up this matter on 25-2-2019"

5] In response to the aforesaid order, an affidavit is filed accepting the position that the Committee has no

jurisdiction to review/recall its own order unless the orders are found to be vitiated by fraud. The Committee has, however, placed on record the reasons recorded for issuance of validity certificate upon recall of the order.

6] With the assistance of the learned counsels appearing for the parties, we have gone through the documents placed on record. The documents bearing high probative value pertaining to the period prior to 1950 in the name of the blood relatives of the petitioner clearly indicate the entry of Mana/Mani/Mane. This aspect is considered in detail by the Division Bench of this Court in the case of *Gajanan Pandurang Shende vrs. The Head Master and others*, reported in **2018 (2) Mh.L.J. 460**. It is held that there is no caste/tribe by name 'Mani' or 'Mane' in existence and therefore, such entries are to be treated as 'Mana'. The validity certificate dated 24.07.2009 of 'Mana – Scheduled Tribe' has already been issued in the name of Manish, the real brother of the petitioner. We have, therefore, scrutinized the claim of the petitioner with reference to the documents placed on record and we find that the order of invalidation of the caste claim of the petitioner passed on 21.10.2016

cannot be sustained and the petitioner is entitled to issuance of validity certificate.

7] In the result, this writ petition is allowed. The order dated 21.10.2016 passed by the Scheduled Tribe Caste Certificate Scrutiny Committee at Nagpur, invalidating the claim of the petitioner for 'Mana – Scheduled Tribe' is hereby quashed and set aside. The claim of the petitioner is held to be valid. We confirm the decision of issuance of validity certificate dated 26.10.2018 issued in the name of the petitioner. The petitioner shall accordingly be entitled to all the benefits flowing therefrom.

Rule is made absolute in above terms. No order as to cost.

JUDGE

JUDGE

Rvjalit