



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

WRIT PETITION NO. 3301 OF 2013

Vinod Pandurang Dharne,
aged about 32 years, Occupation
Agriculturist, R/o Wadegaon, Tah.
Pauni, District Bhandara.

... PETITIONER

VERSUS

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee,
Adiwasi Vikas Bhavan, Giripeth,
Nagpur. Through Vice Chairman.
2. The Secretary,
Village Panchayat, Bhendala,
Tah. Pauni, Distt. Bhandara.
3. The Collector,
Bhandara.
4. The Tahsildar, Pauni,
Tahl Pauni, District Bhandara.

... RESPONDENTS

....
Ms. Preeti Rane, Advocate for the petitioner.
Shri A.M. Deshpande, Additional Government Pleader for respondent No.1.
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**CORAM : R.K. DESHPANDE AND
M.G. GIRATKAR, JJ.**
DATED : 08TH DECEMBER, 2017.

ORAL JUDGMENT : (Per R.K. Deshpande, J.)

The challenge in this petition is to the order dated 31.05.2013 passed by the Scheduled Tribe Certificate Scrutiny Committee, Nagpur, invalidating the caste claim of the petitioner for 'Mana', Scheduled Tribe, which is an entry at Serial No.18 in the Constitution (Scheduled Tribes)

Order, 1950 and cancelling and confiscating the caste certificate dated 22.12.2004 issued by the Sub-Divisional Officer, Bhandara, certifying that the petitioner belongs to "Mana" Scheduled Tribe.

2. Before the Committee, the petitioner produced total 18 documents in support of his caste claim for 'Mana' Scheduled Tribe. The oldest document produced is the copy of Bandobast Missal for the years 1916-17 in respect of petitioner's paternal great grandfathers Fakira and Sakur showing caste as 'Mana' issued from the office of Taluka Inspector, Land Records, Pauni. Another document produced is the copy of Birth register extract in respect of petitioner's paternal uncle Rajyaram s/o Mona showing his caste as 'Mana' recorded on 24.07.1938. All other documents produced pertain to post constitutional period indicating the caste of the petitioner and his paternal relatives as 'Mana'.

3. The Police Vigilance Cell conducted the home enquiry and found that the entry in the Bandobast Missal for the years 1916-17 in the name of paternal great grandfathers of the petitioner namely Fakira and Sakur shows the caste as 'Mani'. There is a discrepancy in the certified copies issued of the same. One shows the caste 'Mana'; whereas the other shows the caste 'Mani'. The next document is in the name of paternal uncle Rajyaram which is the birth extract showing his caste recorded as 'Mana' on 24.07.1938. All other documents indicate the caste 'Mana'.

4. The Committee holds in paragraph 7 of its order that the entry

'Mani' in Bandobast Missal of 1916-17 appears to be fabricated. We are unable to sustain such finding. We have perused both these documents which are certified copies issued by the competent authorities. In the certified copy obtained by the Police Vigilance Cell of the petitioner, the caste entry is shown as 'Mana' and it has been issued in response to the application made by the petitioner and the endorsement regarding it appears in the format. This is not the position in respect of the certified copy obtained by the Police Vigilance Cell which indicates the caste as 'Mani'. The entries are in Marathi as 'माना' and 'मानी'. If at all there is any scope of tampering, it would be in respect of the entry 'Mani' and not 'Mana'. Even if we ignore these documents, the oldest document is of 1938 showing the entry 'Mana' which is carried forward in all other documents. It is, therefore, not possible for us to sustain the finding of the Committee that the petitioner produced fabricated documents of Bandobast Missal of 1916-17 recording the entry as 'Mana'.

5. All the documents produced on record clearly indicate the caste of the petitioner as 'Mana' and in the decision which we have delivered in the case of *Ankush Yashwantrao Mankar .v. Scheduled Tribe Certificates Scrutiny Committee and others*, Writ Petition No. 5861 of 2013 decided on 03rd November, 2017 we have held in respect of entries of 'Mana'/'Mani'/'Mane', as under, in paras 11 and 17.

“11. ... To hold that 'Mana' in Entry No.18 in the Constitution (Scheduled Tribes) Order does not include 'Kashtriya

Badwaik Mana', 'Maratha Mana', 'Kunbi Mana', etc., would amount to permitting evidence to be let in to exclude certain 'Mana' communities from the recognized Scheduled Tribe. Such tinkering with the Presidential Order is not permissible. Once it is established that 'Mana' is a tribe or even a sub-tribe, it is not permissible to say that it is not a recognized Scheduled Tribe in Entry No.18 of the Order. The Scrutiny Committee has failed to understand such effect of overruling the decision in Dina's case.

17. *Applying the law laid down in E.V. Chinnaiah's case, it has to be held in the facts of the present that once it is clear that 'Mana' community is included in entry No.18 of the Constitution (Scheduled Tribes) Order, it has to be read as it is, representing a class 'of 'Mana' as a whole and it is not permissible either for the Executive or for the Scrutiny Committee to artificially sub-divide or sub-classify 'Mana' community as one having different groups, like 'Badwaik Mana', 'Khand Mana', 'Kshatriya Mana', 'Kunbi Mana', 'Maratha Mana', 'Gond Mana', 'Mani/Mane', etc., for the purposes of grant of benefits available to a recognized Scheduled Tribe. To exclude such persons from the entry 'Mana', to be recognized as Scheduled Tribe, amounts to interference, re-arrangement, re-grouping or re-classifying the caste 'Mana', found in the Presidential Order and would be violative not only of Article 342, but also of Article 14 of the Constitution of India. The classification of entry 'Mana' in different categories, like 'Badwaik Mana', 'Khand Mana', 'Kshatriya Mana', 'Kunbi Mana', 'Maratha Mana', 'Gond Mana', 'Mani/Mane', etc., for the purpose of conferring a status as a recognized Scheduled Tribe is artificial and without any authority. The*

Committee has, therefore, committed an error in rejecting the claim by holding that the documents produced simply indicate the caste 'Mana' and not 'Mana, Scheduled Tribe'."

6. We have seen that the oldest document, the bandobast missal of 1916-17 recording entry of caste as 'Mana'. It is not possible to digest that the petitioner would tamper the entry 'Mana' and make it 'Mani' which would be against his own interest. All other documents produced on record including the other oldest document of 1938 indicate the caste entry none other than 'Mana'. In view of the aforesaid law laid down by us, the classification of entry 'Mana' in different categories like 'Mani'/'Mane' is not only violative of Article 342 but also Article 14 of the Constitution of India. In the absence of any material being produced on record showing the caste of the petitioner or his blood relatives other than 'Mana', the rejection of the claim of the petitioner by the Scrutiny Committee cannot be sustained.

7. In view of above, the order passed by the Scrutiny Committee cannot be sustained. The same will have to be quashed and set aside and the petition needs to be allowed.

8. In the result, Writ Petition is allowed in the following terms.

(i) The order dated 31.05.2013 passed by the Scheduled Tribe Certificate Scrutiny Committee, Nagpur, invalidating the claim of the petitioner for 'Mana' Scheduled Tribe is hereby quashed and

set aside.

(ii) The certificate dated 22.12.2004 issued by the Sub-Divisional Officer, Bhandara, certifying that the petitioner belongs to caste 'Mana', Scheduled Tribe, which is an entry at Serial No.18 in the Constitution (Scheduled Tribes) Order, 1950, is held to be valid, and it is declared that the petitioner has established his claim for 'Mana', Scheduled Tribe.

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

JUDGE

JUDGE

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