



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

WRIT PETITION NO. 2788 OF 2023

SWAPNIL SUKHACHNDRA JIWTODE

...Vs...

THE SCHEDULED TRIBE CERTIFICATE SCRUTINY COMMITTEE, GONDIA THR. MEMBER SECRETARY AND ORS.

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Shri N.D. Jambhule, Advocate with Shri S.P.Khare, Advocate for petitioner.
 Shri N.R.Patil, AGP for respondent nos. 1 and 3/State.
 Shri R.M.Bhangde, Advocate for respondent no. 2.

**CORAM: AVINASH G. GHAROTE AND
 SMT. M.S.JAWALKAR, JJ.**

DATED : 10th APRIL, 2024.

Heard.

2. The genealogical tree is not in dispute. It is also not in dispute that the real sister of the petitioner namely Karishma has been granted validity of belonging to 'Mana' Scheduled Tribe by the Caste Scrutiny Committee by the certificate dated 05/03/2019. It is also an admitted position that the other real sister of the petitioner namely Dipali Sukhchandra Jiwtode has also been granted validity on 01/03/2019. That apart, the extended family tree brought on record by the Vigilance Cell also indicates that Sushil S/o. Ramchandra Jivtode, the first cousin of petitioner has also been granted validity on 26/07/2021. There are admittedly no proceedings initiated by the Scrutiny Committee to recall the validity of these persons. We, therefore, do not see any reason for the Committee to have denied validity to the petitioner.

3. In view of the aforesaid position, merely on the ground that, there are certain contrary entries brought on record by the Vigilance Cell, when the oldest entry in respect of the grandfather of the petitioner namely Paika of the year 1916-17 (page 196) is of 'Mana', in view of the settled position of law that, the oldest pre-constitutional entry has to be given precedence, we do not see any reason to sustain the impugned decision of the Committee. The same is, therefore, quashed and set aside.

4. Needless to say that, since the appointment of the petitioner with respondent no. 2 was cancelled only on that ground, the petitioner is entitled for restoration of appointment, in view of the present judgment, as it is not disputed that, the post on which the petitioner was appointed remains vacant.

(SMT. M.S.JAWALKAR, J.) (AVINASH G. GHAROTE, J.)

B.T.Khapekar