



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

**WRIT PETITION NO. 4412 OF 2023**

**Ku. Tajshree d/o. Suresh Gajabe,**  
Aged about 24 years, Occupation  
Student, R/o. Plot No. 91,  
Soubhagya Nagar, Hudkeshwar  
Road, near Upselwar, I.I.T.,  
Nagpur.

**....PETITIONER**

**....VERSUS....**

**1. Scheduled Tribes Certificate  
Scrutiny Committee, Gondia,  
Division, Nagpur through its  
Member Secretary.**

**2. Dr. S.C. Gulhane Prerana  
College of Commerce, Science  
& Arts, Reshimgagh Square,  
Nagpur through its Principal.**

**....RESPONDENTS**

Shri Lavanya Borkar, Advocate for petitioner.  
Shri I.J.Damle, AGP for respondent no. 1/State.

**CORAM : VINAY JOSHI AND**  
**SMT. M.S. JAWALKAR, JJ.**

**DATE OF RESERVING THE JUDGMENT: 04/07/2024**  
**DATE OF PRONOUNCING THE JUDGMENT : 10/07/2024**

**JUDGMENT (PER: SMT. M.S. JAWALKAR, J.)**

Heard.

2. **Rule.** Rule made returnable forthwith.

3. Heard finally by consent of learned counsel appearing for the parties.

4. The present petition is filed challenging the order dated 15/05/2023 passed by respondent no. 1 - Scheduled Tribes Certificate Scrutiny Committee, Gondia, (for short, 'Scrutiny Committee'), thereby the caste claim of 'Mana' Scheduled Tribe of the petitioner is invalidated.

5. It is submitted by the petitioner that, the petitioner is a student and prosecuting her study at Dr. S.C. Gulhane Prerana College of Commerce, Science and Arts, Nagpur and claiming to be a candidate from Scheduled Tribes. The scheme of students scholarship is available to the S.T. candidates. The caste certificate is issued by the Competent Authority to the petitioner.

6. The application for scrutiny of caste claim was submitted by the petitioner to the respondent no. 1 on 18/08/2021. The claim of the petitioner was referred to the

Vigilance Cell by the respondent no. 1 and the petitioner received the Vigilance Cell report along with certain documents and she was asked to submit written explanation to the same. The petitioner had also made reference to the caste validity certificate issued by the Scrutiny Committee to her blood relative **Ku. Mayuri Mohan Gajabe** and she had submitted her caste validity certificate along with other documents before respondent no. 1. On perusal of Vigilance Cell report of Ku. Mayuri Gajabe, it would reveal that entries of blood relatives shown in the matter of the petitioner are same. The place of birth and residence is also same. In the matter of Ku. Mayuri Gajabe, the Scrutiny Committee relied upon the first entry regarding the caste in the relevant record and subsequent contrary entries are not given any importance when particularly caste claim of the said blood relatives as 'Mana' S.T. have been accepted and validity certificate issued to them.

7. The respondent no. 1- Scrutiny Committee completely overlooked the caste validity certificate issued to

the blood relatives and on erroneous consideration, without application of mind, rejected the caste claim of the petitioner vide order/decision dated 15/05/2023.

8. The respondent no. 2 on receipt of decision of the Caste Scrutiny Committee dated 15/05/2023, vide letter dated 04/07/2023 directed the petitioner to pay amount of education fees till 04/08/2023 since she has been disqualified for benefit of students scholarship scheme on account of invalidation of her caste claim.

9. The following documents are filed by the petitioner as well as procured by the Vigilance Cell:-

Name	Relation	Document	Date of document	Caste
Hanya Mana	Great Grandfather	Kotwal Panji	1918	Mana
Arjun Dinu	Cousin Grandfather	Entry Book of Primary School, Paoni	1937	Mana
Dinba Mana	Cousin Great Grandfather	Kotwal Panji	1941	Mana
Dada Hanu Gajabhe	Grandfather	Admit Cancel Register	1942	Mana
Dinu Ganu Mana	Cousin Great Grandfather	Kotwal Panji	1947	Mana

Arjun Dinu	Grandfather	Dakhal Kharij	1948	Mana Kunbi
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10. It is contention of the learned counsel for petitioner that the respondent no. 1 committed an error in not relying upon the caste validity certificates issued to the blood relatives of the petitioner when particularly State Government has issued directions to the Committees to issue caste validity certificates to the S.T. candidates of whose blood relatives' caste validity certificates have been upheld by the Committee, unless and until Committee finds any fraud or any new contradictory materials then only not to rely upon the caste validity of the blood relatives. In the present matter, it is not the case of the respondent no. 1 that caste validity certificate of blood relatives relied upon by the petitioner are obtained by fraud or any new document is traced which was not available earlier. In fact, Vigilance Cell report of Ku. Mayuri Gajabe submitted on record, whose caste claim has been validated by the Scrutiny Committee would reveal that the entries regarding the blood relatives are identical and similar. As such, the impugned order dated 15/05/2023 cannot stand

at the scrutiny of law and same is liable to be quashed and set aside and respondent no. 1 – Scrutiny Committee needs to be directed to issue caste validity certificate to the petitioner.

11. It is further contended that while considering the caste of Arjun Dinba Gajabe, cousin grandfather of the petitioner, the Scrutiny Committee ignored first basic entry of the caste recorded in 1918 document and also of Arjuna Dinba Gajabe, cousin grandfather in the year 1947 and much weightage has been given to the subsequent entries of the year 1948 and 1952, when particularly, son of Arjuna viz. Ramu got validity certificate from the Scrutiny Committee. As such, the members of the Scrutiny Committee with pre-decided mind to invalidate the caste claim of the petitioner, proceeded with the matter and without application of mind to the facts on record and legal position in field erroneously rejected the caste claim of the petitioner as a ‘Mana’ S.T.

12. The learned counsel for the petitioner relied on the following citations:-

- 1) *Priya Pramod Gajbe V/s. State of Maharashtra and ors. [2023 INSC 663]*
- 2) *Apoorva Nichale V/s. Divisional Caste Certificate Scrutiny Committee No. 1 and ors. [2010 (6) Mh.L.J. 401]*

13. The learned Assistant Government Pleader supported the impugned order passed by the Scrutiny Committee and submitted that the above-mentioned documents showing the caste as 'Mani' where as there are many documents submitted by the petitioner and verified by the Vigilance Cell in which caste of the petitioner is recorded as 'Mana'. There is inherent discrepancy and two different caste entries found in the caste entries of the petitioner and close blood relatives of the petitioner. Hence, the record are not conclusive document while deciding the tribe claim of the petitioner because the document does not speak about the social status of the petitioner as tribe or caste two different entries with two different socio-status with synonymous group exist in the society. It is submitted that the respondent no. 1 - Scrutiny Committee considered the same while

deciding the tribe claim of the petitioner. Hence, the Scrutiny Committee passed an appropriate order which needs no interference and prayed for dismissal of the present petition.

14. The learned AGP relied on the following citations:-

- 1) *Maroti Vyankati Gaikwad V/s. Deputy Director and Member-Secretary, the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati [2023(6) ABR 419 Bombay High Court]*

15. I have heard both the parties at length. Perused the original record and proceedings placed on record by learned AGP. If report of Vigilance Cell is perused, there is no discrepancy in the documents. Only one document mentioning as 'Mani' procured by the Vigilance Cell is placed on record. Otherwise all the entries in respect of paternal relatives of the petitioner show as 'Mana'.

16. From Vigilance Cell report, it would be seen that the entry of Dada Hanu Gajabhe in Admit Cancel Register of Nagar Palika Vidyalaya, Paoni shows his caste as 'Mana'. The



date of birth is shown 24/01/1942. Similarly, Dada Hanu Gajabhe's school leaving certificate shows that he is 'Mana' and date of birth is 24/01/1942. Arjun Dinu who is paternal relative of the petitioner, his entry in Nagar Parishad, Lal Bahadur Shastri Pramukh Primary School, Paoni shows his date of birth as 18/09/37 and his caste is shown as 'Mana'. Similarly, in Admit Cancel Register of School, Arjun Dinu having entry of Mana Ku and his date of birth is shown as 18/09/1937. The Vigilance Cell placed on record some old affidavits which are in dilapidated condition. Though Vigilance Cell found entry of 1947 showing Dinu S/o. Ganu Mana gave birth to one son male child namely Nikawadu, however, it was observed that he is not the member of family tree. In our considered opinion, the name Kawadu specifically can be seen is a son of Dinu whose father is Ganu Mana. Thus, there is no dispute that the documents produced on record are genuine one. Most important and old document is of 1918. It shows that Hanya Mana gave birth to one male child. It is extract of Kotwal Panji. It was informed by the

Collectorate Office that the same was issued by their Office. It is said to be suspicious for no reason as it is the stray entry. The Vigilance Cell has no authority to doubt that entry when specifically Collectorate Office informed that it was issued by their office. If school leaving certificate of Dada S/o. Hanu Gajabhe is seen, his date of birth is 24/01/1942 and he was studying in Municipal Council School of Pauni. If extract of 1918 of Birth-Death Register is perused, Hanya is shown to be of Wadegaon, Pauni. Thus, it can be seen that the oldest entry is of 'Mana'. In all other documents, the caste of paternal relatives are shown as 'Mana', there is only one stray entry of 'Mani' that too of 1953.

17. The petitioner placed reliance on *Priya Pramod Gajbe* (supra), wherein the Hon'ble Apex Court held in para 9 and 10 as under:-

*"9. It could thus be seen that this Court has held that documents of the pre-Constitution period showing the caste of the applicant and their ancestors have got the highest probative value. It has also been held that if an applicant is able to produce authentic and genuine documents of the per-Constitution period showing that*

*he belongs to a tribal community, there is no reason to discard his or her claim as prior to 1950, there were no reservations provided to the Tribes included in the Constitution (Scheduled Tribes) Order."*

*"10. A perusal of the report of the Vigilance Committee itself would reveal that the appellant's great grandfathers birth record show the caste as 'Mana'. The said document relates to as early as 10th March 1924, while another document of 14th April 1926 shows as 'Mani'. However, it is pertinent to note, and learned counsel for the parties also agree, that there is no caste named 'Mani'. It is thus possible that there could be some mistake in writing when the caste was written. It is to be noted that original record is written in Marathi and not in English. As such, such an error is quite possible."*

18. The petitioner further placed reliance on ***Apoorva Nichale*** (supra), wherein it is held in para 7 and 9 as under:-

*"7. We thus come to the conclusion that when during the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that claimed by the applicant, the committee may grant such certificate without calling for Vigilance Cell Report. However, if the*

*committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to follow and may refuse to grant certificate to the applicant before it."*

*"9. In the present case, ..... The matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment, and therefore where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order."*

19. The learned counsel for learned AGP relied on **Maroti Vyankati Gaikwad** (supra), a Full Bench decision reproduced as under:-

*"Any claim by any tribe, sub-tribe or parts of such tribe or sub-tribe whether having any similarity, prefix/suffix, synonymity, with the name of the tribe as mentioned in the*

*Presidential (ST) Order 1950, of being included in such Scheduled Tribe, would not be permissible. Thus persons belonging to tribes or sub-tribes such as 'Badwaik Mana', 'Khand Mana', 'Kshatriya Mana', 'Kshatriya Badwaik Mana', 'Kunbi Mana', 'Maratha Mana', 'Gond Mana', 'Mani'/'Mane', 'Mane Ku', 'Mana Ku', 'Ku Mana', 'Mana Kunbi', 'Patil Mana', etc. cannot be held to be included in the Scheduled Tribe 'Mana', in entry 18 in the Presidential (ST) Order 1950 and thus cannot claim the status of a Scheduled Tribe."*

20. We are of the considered opinion that the oldest entry is of 1918 and other entry shows only 'Mana' . If there is subsequent entry showing something in addition to 'Mana', the old entry will prevail over that.

21 In view of the judgments in *Priya Pramod Gajbe* (supra) and *Apoorva Nichale* (supra), the Caste Scrutiny Committee ought to have issued validity certificate to the petitioner. The Committee has erred in not granting validity in favour of the petitioner and acted perversely and arbitrarily. As such, the present petition is liable to be allowed. Accordingly, we pass the following order:-

**ORDER**

- 1) The Writ Petition is allowed.
- 2) The impugned order dated 15/05/2023 in Case No. JC/TCSC/GONDIA/I/37/35/21 (Case ID: 6/506/Edu/082021/240986) passed by respondent no. 1/Scheduled Tribes Certificate Scrutiny Committee, Gondia, in the matter of the petitioner is hereby quashed and set aside.
- 3) It is held and declared that the petitioner has duly established that he belongs to 'Mana' Scheduled Tribe.
- 4) The respondent/Scrutiny Committee, Gondia is hereby directed to issue validity certificate of 'Mana' Scheduled Tribe to the petitioner within a period of six weeks from passing of this order.
- 5) Till such validity certificate is received, the petitioner can rely upon the judgment to indicate the direction which has been issued for issuance of such validity certificate.

Rule is absolute in the above terms. No costs.

**(SMT. M.S. JAWALKAR, J.)**

**(VINAY JOSHI, J.)**

*B.T.Khapekar*