



WP 1326/12



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Judgment

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

**WRIT PETITION NO. 1326 OF 2012**

Shamlata d/o Murlidhar Sonwane,  
aged 37 yrs., occu. Housewife,  
R/o Mendki, Tah. Bramhapuri,  
Distt. Chandrapur.

**PETITIONER**

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

The Scheduled Tribe Caste Certificate  
Scrutiny Committee, Gadchiroli  
Division, Nagpur through Chairman.

**RESPONDENT**

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Ms. P. D. Rane, counsel for the petitioner.  
Shri N. W. Sambre, Counsel for the respondent 1.

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**CORAM: B. R. GAVAI AND**  
**A. P. BHANGALE JJ.**  
**DATE: DECEMBER 18, 2012.**

**ORAL JUDGMENT (Per B. R. GAVAI, J.)**

**RULE.** Rule made returnable forthwith. The petition is heard finally with the consent of the learned counsel for the parties.

2] By the present petitioner the petitioner is challenging the order passed by Scheduled Tribe Certificate Scrutiny Committee invalidating the claim of the petitioner of belonging to Mana Scheduled

Tribe.

3] Heard Ms. Rane, learned counsel for the petitioner and Shri Sambre, learned counsel for the Committee.

4] The petitioner's claim is invalidated on the following grounds:

i] In the documents on which the petitioner relies caste as Mana, Scheduled Tribe is not written.

ii] That the petitioner does not belong to an area which was scheduled for tribal.

iii] That there is some overwriting in the entry pertaining to the petitioner's father, his brother and sister.

5] The perusal of the record would reveal that the petitioner has produced the documents pertaining to 1943 i. e. an Admission Register of petitioner's father wherein the caste is shown as Mana. The petitioner's grand father's document is of the year 1921-22 also shows that the caste shown as Mana.

6] Insofar as the first ground on which the Committee has rejected his claim that the old documents of the year 1921-22 and 1949 do not show Mana-Scheduled Tribe is concerned, by no stretch of imagination it could be said that the petitioner's grant father and the father in the year 1921-22 and in 1949, could have anticipated that the tribe 'Mana' would be notified as Scheduled Tribe in the Presidential Order of 1950 and, therefore, would have written Scheduled Tribe after

Mana. Insofar as judgment of the Division Bench on which reliance is placed, the entries concerned in the said judgment were of 1983 and, therefore, Court has observed that in normal circumstance it ought to have written Scheduled Tribe after the tribe concerned.

Insofar as second ground is concerned, by the Amendment Act of 1976 the area restriction have been removed and as such rejection on this ground is also not sustainable.

Insofar as third ground regarding overwriting is concerned, there is no finding that the petitioner or his father had indulged in any fabrication of document or have played any fraud.

7] Apart from that the other ground on which the petition deserves to be allowed is that the petitioner's father and brother have already been issued validity certificate by the same Committee. The petitioner's father had been granted the validity certificate on 25<sup>th</sup> August 2009 whereas the petitioner's one real brother had been granted the validity certificate on 6<sup>th</sup> March 2007. The petitioner's another real brother namely Pramod has also been granted validity certificate on 4<sup>th</sup> March 2008. As such in view of the Division Bench judgment in the case of *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 and others* 2010(6) *Maharashtra Law Journal* 401, the impugned order is not sustainable on this ground also. In the result the petition is allowed. Impugned order is quashed and set aside.

8] Respondents are directed to issue validity certificate in favour of the petitioner certifying that the petitioner belongs to Mana Scheduled Tribe. Same shall be done within a period of two weeks.

Rule is made absolute with no order as to costs.

JUDGE

JUDGE

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