

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

WRIT PETITION NO.7034 OF 2017

Vikas S/o Champat Jivtode,
Aged about : 19 yrs.,
Occ. Student,
R/o Khutala (Bhake),
Post – Sagra, Tah. Bhadrawati,
Distt. Chandrapur.

... **PETITIONER**

V E R S U S

1. The Joint Commissioner,
Scheduled Tribe Caste
Certificate Scrutiny Committee,
Gadchiroli Division, Gadchiroli.
2. The Directorate of Medical
Education & Research,
Mumbai.
3. The Dean,
Government Medical College,
Gondia, Distt. Gondia.
4. The Vice-Chancellor/Registrar,
Maharashtra University of Health
Sciences (MUHS),
Mhasrul Road, Nasik.

... **RESPONDENTS**

Ms. Preeti Rane, Advocate for petitioner.
Shri A.M.Joshi, Assistant Government Pleader for respondent
Nos.1 to 3.

**CORAM:- R. K. DESHPANDE &
ARUN D. UPADHYE, JJ.**

DATED : 11/06/2018.

ORAL JUDGMENT : (PER R. K. DESHPANDE, J.)

1. Rule made returnable forthwith. Heard finally with the consent of the learned counsels appearing for the parties.

2. The challenge in this petition is to the order dated 27th October, 2017 passed by the Schedule Tribe Certificate Scrutiny Committee, Gadchiroli, Division Nagpur invalidating the claim of the petitioner for 'Mana' Scheduled Tribe, which is an Entry at Sr.No.18 in the Constitution (Scheduled Castes) Order, 1950.

3. We have heard learned counsels appearing for the parties and also have gone through the order impugned and the documents placed on record. The committee records the finding that even not a single document pertaining to period prior to 1950 is produced on record indicating the Tribe of the petitioner or his forefathers as 'Mana' Scheduled Tribe. On the basis of the Affinity Test, the Committee holds that the petitioner has failed to establish his claim for 'Mana' Scheduled Tribe.

4. The petitioner produced before the Committee several documents. All indicating the caste as 'Mana'. Document at

Sr.No.16 is in the name of Rajaram Kanhu, cousin grand-father of the petitioner and it is a birth certificate indicating the name of his father as Kanhu Dewaji Mana, recorded on 29/05/1947. The document at Sr.No.20 is an extract of record of rights indicating the name of Siva Devaji Mana, great-great-grandfather of the petitioner containing entry as 'Mana' attached to his name in the year 1918–1919. The Committee was therefore in error in holding that the petitioner has not produced the documents of pre-constitutional period in support of his claim. The petitioner also produced several documents of 'Mana' post-constitutional period and the Committee erred in ignoring its evidentiary value.

5. The Police Vigilance Cell conducted home enquiry and found that these two documents of the period prior to 1950 indicate the Tribe of the forefathers of the petitioner as 'Mana'. The Police Vigilance Cell further holds that it does not possess the traits characteristics and customs prevailing in 'Mana Scheduled Tribe' and it is, therefore, not possible to hold that the petitioner does not satisfy the test 'Mana Scheduled Tribe'. The Committee's report is countersigned as accepted by the Research Officer, who is supposed to be an expert. In our opinion, the report of the Police

Vigilance Cell is clearly in favour of the petitioner to establish that he belongs to 'Mana Scheduled Tribe'.

6. There is not a single document produced on record or obtained by the Police Vigilance Cell indicating the Tribe of the petitioner other than 'Mana Scheduled Tribe'. All the aspects dealt with by the Committee have already been answered in the decision of this Court in case of Narendra s/o Balaji Ghodmare Vrs. Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli and another, reported in 2018 (2) Mh.L.J. 766 and in the case of Diwakar s/o Sadashiv Wakade Vrs. Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli and others, reported in 2018 (3) Mh.L.J. 954. In view of this, the order passed by the Committee, cannot be sustained.

7. In the result, the writ petition is allowed. The order dated 27th October, 2017 passed by the Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli, Division Nagpur invaliding the claim of the petitioner for 'Mana' Scheduled Tribe is, therefore, quashed and set aside.

8. The Committee is directed to issue Caste Validity Certificate in the name of petitioner accordingly for 'Mana' Scheduled Tribe at an Entry at Sr.No.18 in the Constitution (Scheduled Castes) Order, 1950.

9. The other respondents are directed to process the claim of the petitioner for admission to M.B.B.S. Course on the basis of this decision rendered and without waiting for receipt of Caste Validity Certificate.

10. Rule is made absolute in the aforesaid terms accordingly. No costs.

(Arun D. Upadhye, J.)

(R.K. Deshpande, J.)

Choulwar