

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

WRIT PETITION NO.7031/2017

PETITIONER: Sakshi d/o Ramrao Nannaware
Aged about 18 years, Occ. Student,
R/o At – Post – Doma, Tah. Chimur,
Distt. Chandrapur.

...VERSUS...

RESPONDENTS: 1. The State of Maharashtra, through
its Secretary, Tribal Development Department,
Mantralaya, Mumbai – 32.

2. The Joint Commissioner,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli Division,
Gadchiroli.

3. The Directorate of Medical
Education & Research, Mumbai.

4. The Dean, Government Medical College,
Akola, Distt. Akola.

5. The Vice-Chancellor/Registrar,
Maharashtra University of Health,
Sciences (MUHS), Mhasrul Road, Nasik.

Ms P.D. Rane, Counsel for petitioner
Shri A.M. Joshi, AGP for respondent nos.1 to 4

CORAM : R.K. DESHPANDE AND
ARUN D. UPADHYE, JJ.
DATE : 12/06/2018

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

1. Rule, made returnable forthwith. By consent, the writ petition is heard finally.

2. The challenge in this petition is to the order dated 27/10/2017 passed by the Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli, Division Nagpur, invalidating the claim of the petitioner for Mana Scheduled Tribe, which is an entry at serial no.18 in the Constitution (Scheduled Tribes) Order, 1950.

3. The claim of the petitioner was verified for the purposes of her admission to first year M.B.B.S. course.

4. In our view, it is not necessary for us in the present matter to record the detailed reasons, in view of law laid down by us in the case of Gajanan s/o Pandurang Shende...Versus...Head-Master, Govt. Ashram School, Dongargaon Salod and others, reported in 2018 (2) Mh.L.J., 460, which covers all points applied by the Scrutiny Committee in rejecting the claim of the petitioner for Mana Scheduled Tribe. Pre-Constitutional document produced on record is the entry of birth and death register in respect of male

child born to one Jairam Aarjuna, the great grandfather of the petitioner in which entry Mana was recorded on 20/3/1941. Adhikar Abhilekh Panji produced on record pertaining to year 1954-55 in the name of Jairam Arjun indicates the entry “Mana”. The Police Vigilance Cell report clearly indicates that the petitioner has established her case for Mana Scheduled Tribe on the basis of the documentary evidence. The report shows that the Committee does not possess the traits, characteristics and customs available in Mana Scheduled Tribe so as to compare the same with traits, characteristics and customs stated by the petitioner and her relatives. This is endorsed by the Research Officer, who is supposed to know the real traits, characteristics and customs prevailing in Mana Scheduled Tribe category.

5. The petitioner has produced on record the caste validity certificate issued in the name of her father Ramrao Govinda Nannaware, validating his claim for Mana Scheduled Tribe on 20/12/2005. The Police Vigilance Cell enquiry was conducted before issuance of such certificate and report to that effect is also produced on record. In view of the decision in the case of Apoorva

d/o Vinay Nichale...Versus...Divisional Caste Certificate Scrutiny Committee No.1 and others, reported in *2010 (6) Mh.L.J. 401*, in our view, the Committee had no option but to validate the claim of the petitioner for Mana Scheduled Tribe, otherwise it would create an anomalous situation that the father of the petitioner belongs to Mana Scheduled Tribe, whereas the petitioner does not. The order passed by the Scrutiny committee cannot therefore be sustained and in view of the documents produced on record, in our view, the claim of the petitioner could not have been rejected by the Scrutiny Committee based on affinity test, which had no authenticity. The petitioner, in our view, is entitled to a declaration of validation of her claim for Mana Scheduled Tribe.

6. In the result, this writ petition is allowed and the following order is passed.

ORDER

(i) The order dated 27/10/2017 passed by the Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli, Division Nagpur is hereby quashed and set aside.

(ii) The claim of the petitioner for Mana Scheduled Tribe which is an entry at serial no.18 in the Constitution (Scheduled Tribes) Order, 1950 is held to be valid.

(iii) The Scrutiny Committee is directed to issue caste validity certificate in the name of the petitioner accordingly within a period of ten days from today.

(iv) The petitioner shall be entitled to all benefits as a candidate belonging to Mana Scheduled Tribe category and the respondents - authorities are directed to process the claim of the petitioner for admission to first year M.B.B.S. course as a candidate belonging to Scheduled Tribe category on the basis of this judgment without even waiting for the receipt of caste validity certificate from the Scrutiny Committee.

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

(Arun D. Upadhye, J.)

(R.K. Deshpande, J.)

Wadkar, P.S.