

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

WRIT PETITION NO. 5171 OF 2018

Mrunali d/o Shamrao Wakade,
aged about 17 years, Occupation
Student, through Natural Guardian
Father Shri Shamrao s/o Dharmaji
Wakade, aged about 51 years, Occupation
Service, R/o Vinayak Nagar, Lonwahi,
Post-Tah. Sindewahi, Distt. Chandrapur. ... PETITIONER

VERSUS

1. The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli.
2. The Principal,
College of Agriculture,
Sonapur, Distt. Gadchiroli.
3. The Vice-Chancellor/Registrar,
Dr. Punjabrao Deshmukh Krishi
Vidyapeeth, Akola.
4. The Maharashtra Council of
Agriculture Education and
Research, Pune.
5. The State Common Entrance Test
Cell, Maharashtra State, Mumbai,
through its Commissioner having
his office at 8th Floor, New Excelsior
Building, A.K. Naik Marg, Fort,
Mumbai-400 001. ... RESPONDENTS

WITH

WRIT PETITION NO. 4912 OF 2018

Ku. Kunjal d/o Chandrakant Gajbe,
Occupation Student, aged about 17,

through Guardian father Shri
Chandrakant s/o Pundlikrao Gajbe,
Occupation Service, aged about
52, R/o 204, Kalash Puja Apartment,
Hudkeshwar Road, Nagpur.

... PETITIONER

VERSUS

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, Adiwasi Bhavan,
Giripeth, Nagpur, through its Member
Secretary.
2. The Maharashtra Council of
Agricultural Education and
Research, Pune, 132-W, Bhamburda.
Bhosale Nagar, Pune, through its
Director (General).
3. State of Maharashtra,
through its Principal Secretary,
Department of Higher and Technical
Education Mantralaya Extension
Madam Cama Road, Mumbai-32.
4. State of Maharashtra,
through its Principal Secretary Tribal
Development Department Mantralaya
Extension, Madam Cama Road,
Mumbai – 400 032.
5. The Principal,
Dr. C.Y. Patil College of Agricultural
Engineering and Technology, Talsande,
Tah. Hatkanangale, Distt. Kolhapur
6. The State Common Entrance Test
Cell, Maharashtra State, Mumbai,
through its Commissioner having
his office at 8th Floor, New Excelsior
Building, A.K. Naik Marg, Fort,
Mumbai-400 001.

... RESPONDENTS

WITH
WRIT PETITION NO. 4947 OF 2018

Ku. Shubhada d/o Shankar Chaudhari,
aged about 18 years, Occupation
Student, R/o At Tukum, Post and
Tq. Nagbhid, Distt. Chandrapur.

... PETITIONER

VERSUS

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli, through
its Member Secretary.
2. State Common Entrance Test
Cell State CET Cell, The Commissioner,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort, Mumbai-400 001.
3. State of Maharashtra,
through its Principal Secretary,
Department of Higher and Technical
Education Mantralaya Extension
Madam Cama Road, Mumbai-32.
4. State of Maharashtra,
through its Principal Secretary Tribal
Development Department Mantralaya
Extension, Madam Cama Road,
Mumbai – 400 032.
5. The State Common Entrance Test
Cell, Maharashtra State, Mumbai,
through its Commissioner having
his office at 8th Floor, New Excelsior
Building, A.K. Naik Marg, Fort,
Mumbai-400 001.

... RESPONDENTS

WITH
WRIT PETITION NO. 5118 OF 2018

Rohit s/o Nanaji Kutarmare,

Occupation Student, aged about
18, R/o At and Post Borgaon (Bhosale),
Tq. Warora, District Chandrapur.

... PETITIONER

VERSUS

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, through its Member
Secretary, Zilla Parishad Complex Area,
Gadchiroli.
2. The Maharashtra Council of
Agricultural Education and
Research, Pune, 132-W, Bhamburda.
Bhosale Nagar, Pune, through its
Director (General).
3. The Principal,
College of Horticulture, Mulade,
Mulade, Tal. Kudal, District
Sindhudurg – 416 520.
4. Dr. Balasaheb Sawant Konkan Krishi
Vidyapeeth, Dapoli, District
Sindhudurg – 416 520.
5. The State Common Entrance Test
Cell, Maharashtra State, Mumbai,
through its Commissioner having
his office at 8th Floor, New Excelsior
Building, A.K. Naik Marg, Fort,
Mumbai-400 001.

... RESPONDENTS

WITH
WRIT PETITION NO. 5172 OF 2018

Mayuri d/o Sudhakar Dandekar,
aged about 18 years, Occupation
Student, R/o Sant Dnyaneshwar Ward,
Near Patwari Colony, Hinganghat,
Tqh. Hinganghat, Distt. Wardha.

... PETITIONER

VERSUS

1. The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Adiwasi Vikas
Bhavan, Giripeth, Nagpur.
2. The Principal,
College of Agriculture,
Sonapur, Distt. Gadchiroli.
3. The Vice-Chancellor/Registrar,
Dr. Punjabrao Deshmukh Krishi
Vidyapeeth, Akola.
4. The Maharashtra Council of
Agriculture Education and
Research, Pune.
5. The State Common Entrance Test
Cell, Maharashtra State, Mumbai,
through its Commissioner having
his office at 8th Floor, New Excelsior
Building, A.K. Naik Marg, Fort,
Mumbai-400 001.

... RESPONDENTS

WITH

WRIT PETITION NO. 5173 OF 2018

Shubham s/o Diwakar Nannaware,
aged about 18 years, Occupation
Student, R/o At – Datala (New),
Post Ramnagar, Tah. And Distt.
Chandrapur.

... PETITIONER

VERSUS

1. The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli.
2. The Principal,

Govt. College of Engineering,
Amravati.

3. The Vice-Chancellor/Registrar,
Sant Gadge Baba Amravati
University, Amravati.
4. The Directorate of Technical
Education, Maharashtra State,
Mumbai – 400 001.
5. The State Common Entrance Test
Cell, Maharashtra State, Mumbai,
through its Commissioner having
his office at 8th Floor, New Excelsior
Building, A.K. Naik Marg, Fort,
Mumbai-400 001.

... RESPONDENTS

WITH
WRIT PETITION NO. 5216 OF 2018

Sanjivani d/o Narendra Dodke,
aged about 17 years, Occupation
Student, through Natural Guardian
Father Shri Narendra Warlu Dodke,
aged about 62 years, Occupation
Retired, R/o Sanjivani Complex,
Christ Hospital Road, Tukum,
Chandrapur.

... PETITIONER

VERSUS

1. The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli.
2. The Principal,
College of Agriculture,
Nagpur.
3. The Vice-Chancellor/Registrar,
Dr. Punjabrao Deshmukh Krishi

Vidyapeeth, Akola.

4. The Maharashtra Council of Agriculture Education and Research, Pune.
5. The State Common Entrance Test Cell, Maharashtra State, Mumbai, through its Commissioner having his office at 8th Floor, New Excelsior Building, A.K. Naik Marg, Fort, Mumbai-400 001.

... RESPONDENTS

WITH
WRIT PETITION NO. 5218 OF 2018

Sarang s/o Dnyaneshwar Shrirame,
aged about 18 years, Occupation
Student, R/o At P9ost Antargaon,
Tah. Sindewahi, Distt. Chandrapur.

... PETITIONER

VERSUS

1. The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli.
2. The Principal,
S.D.M.V.M's College of
Agriculture, Aurangabad.
3. The Vice-Chancellor/Registrar,
Vasantrao Naik Marathwada Krishi
Vidyapeeth, Parbhani.
4. The Maharashtra Council of
Agriculture Education and
Research, Pune.
5. The State Common Entrance Test
Cell, Maharashtra State, Mumbai,
through its Commissioner having

his office at 8th Floor, New Excelsior
Building, A.K. Naik Marg, Fort,
Mumbai-400 001.

... RESPONDENTS

WITH
WRIT PETITION NO. 5219 OF 2018

Payal d/o Janardhan Gharat,
aged about 18 years, Occupation
Student, R/o At Post Anandwan, Tah.
Warora, Distt. Chandrapur.

... PETITIONER

VERSUS

1. The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli.
2. The Principal,
Anand Niketan College of Agriculture,
Warora, Distt. Chandrapur.
3. The Vice-Chancellor/Registrar,
Dr. Panjabrao Deshmukh Krishi
Vidyapeeth, Parbhani.
4. The Maharashtra Council of
Agriculture Education and
Research, Pune.
5. The State Common Entrance Test
Cell, Maharashtra State, Mumbai,
through its Commissioner having
his office at 8th Floor, New Excelsior
Building, A.K. Naik Marg, Fort,
Mumbai-400 001.

... RESPONDENTS

WITH
WRIT PETITION NO. 5220 OF 2018

Tejaswini d/o Ganpat Dhok,
aged about 18 years, Occupation

Student, R/o At Post Salori, Tah.
Warora, Distt. Chandrapur

... PETITIONER

VERSUS

1. The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli.
2. The Principal,
College of Agriculture,
Sonapur, Distt. Gadchiroli.
3. The Vice-Chancellor/Registrar,
Dr. Panjabrao Deshmukh Krishi
Vidyapeeth, Akola.
4. The Maharashtra Council of
Agriculture Education and
Research, Pune.
5. The State Common Entrance Test
Cell, Maharashtra State, Mumbai,
through its Commissioner having
his office at 8th Floor, New Excelsior
Building, A.K. Naik Marg, Fort,
Mumbai-400 001.

... RESPONDENTS

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Ms. Preeti D. Rane and Shri Ashwin Deshpande, Advocates for the
petitioners.

Smt. M.A. Barabde, Ms. N.P. Mehta, Shri S.M. Ghodeswar, Shri P.S.
Tembhare, Shri A.M. Kadukar, Smt. H.N. Prabhu, Assistant Government
Pleaders for respondent No.1.

Shri N.S. Khubalkar, Advocate for respondent No.5.

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CORAM : B.P. DHARMADHIKARI AND
M.G. GIRATKAR, JJ.

DATED : 30TH AUGUST, 2018.

ORAL JUDGMENT : (Per B.P. Dharmadhikari, J.)

Rule. Rule made returnable forthwith. Heard finally with the consent of learned Counsel for the parties.

2. In all these matters, orders passed by Scrutiny Committee invalidating caste claims of petitioners to “Mana” Scheduled Tribe have been questioned.

3. Ms. Rane and Shri Deshpande, learned Counsel for respective petitioners state that all documents show the caste as “Mana”. Caste claim has been invalidated only because in few documents, caste has been recorded either as “Mani” or “Mane”. They also submit that validities placed on record and looked into by Committee have been distinguished on the ground that those validities were issued because of directions of Hon'ble Apex Court without undertaking exercise of vigilance enquiry. They contend that the orders are, therefore, unsustainable. They are relying upon several judgments delivered by this Court including the judgment delivered on 03rd August, 2018 in Writ Petition Nos. 4843 of 2018; 4838 of 2018; and 4839 of 2018. Support is also taken from order dated 30th July, 2018 passed in Writ Petition No. 3764 of 2018 and seven other matters.

4. Petitioners state that they have been already admitted in colleges which are under the supervision of Maharashtra Council of Agriculture Education and Research, Pune. They also pointed out that admission process is conducted by State Common Entrance Test Cell which is centralized agency for that purpose.

5. It is not in dispute that in all these matters, because of these assertions and available validity, admission/education of petitioners is protected by interim orders. The matters are being taken up for early disposal because of Civil Applications moved by the State Common Entrance Test Cell pointing out that 21st August, 2018 was the last date for submission of validity and 10th September, 2018 is the last date for completing admission process.

6. Shri Khubalkar, learned Counsel for respondent No.5-State Common Entrance Test Cell submits that though the Cell is not concerned with validity or otherwise of caste claim, if the validity certificates are not issued, seats becoming vacant, can be given to other students before 10th September, 2011. Respective learned AGPs are relying upon impugned orders to urge that the earlier validities have been looked into and distinguished because there no police vigilance cell enquiry was carried out. It is further pointed out that in some matters,

there are entries like “Mani” or “Mane” and hence the caste claim as “Mana” could not be validated.

7. In reply arguments, respective Counsel for petitioners state that Committee has passed orders in most mechanical manner and in order dated 30th July, 2018 impugned in Writ Petition No. 5172 of 2018, though there is not a single document in which word “Mane” has been employed, the Committee has given that reason for invalidating caste claim.

8. Learned AGPs have also invited our attention to a statement appearing in same order at internal page No.34 while deciding point No.6. It is submitted that in Vidarbha, area there exists a caste by name “Mana” which is mostly involved in agriculture and in old documents their caste is recorded either as “Mana”, “Mane”, “Mani”, “Mani Kunbi”, “Mana Kunbi” or “Kunbi”. Learned AGPs submit that Committee has pointed out that people belonging to this “Mana” caste have no concern whatsoever with “Mana” community which is recognized as Scheduled Tribe.

9. After hearing respective Counsel, we find that in all these matters, the Scrutiny Committee or Police Vigilance Cell have not found

documents for verification of old caste/certificates/entries either tampered with or interpolated. The validities are also available and they are distinguished only on the ground that there was no vigilance enquiry. However, in vigilance enquiry now conducted, if there is any adverse material, the same has not been pointed out to this Court. The vigilance report in some cases shows few documents in which caste is recorded either as “Mane” or “Mani” but then availability of old documents in which caste is also recorded as “Mana” is not in dispute.

10. In this situation, when validity has been given because of orders of a Court of Law if that validity is to be ignored, a material which militates with validity given, needed to be pressed into service.

11. Very recently, while dealing with similar challenge in relation to “Thakur” Scheduled Tribe, this court has upheld the orders of Scrutiny Committee invalidating the tribe claim as “Thakur”. This Court has taken note of specific finding of Committee with reference to case law, committee in those orders has taken note of existence of “Thakur” as upper caste in Kshatriya, Rajput or other similar castes/communities. This Court, therefore, upheld recourse to affinity as mention of caste “Thakur” in old documents by itself could not have been decisive.

12. Insofar as adverse finding on residence/native place of family of respective petitioners is concerned, it is apparent that after 1976 exercise of removal of area restriction, said aspect loses its relevance. The fact that petitioner or his family hails from such area at the most can be corroborative piece of evidence in favour of the petitioner. It cannot be used against him. This aspect had already been looked into in judgment delivered by this Bench in the case of *Chhaya d/o Jasvantsingh Hajari and others .v. Committee for Scrutiny and Verification of Tribe Claims, Amravati and others (reported in 2018 LawSuit (Bom) 1403)*.

13. In present matters, the Committee has not come across any material which shows that caste “Mana” has been shown either by interpolation or tampering. The Committee has only, because of absence of vigilance exercise, ignored validities and taken recourse to affinity. There is a general observation which records that in Vidarbha area, “Mana” caste also exists and they are mostly cultivators. Their caste is recorded as “Mana”, “Mane”, “Mani”, “Mane Kunbi”, “Mani Kunbi” or “Kunbi”. The Committee observes that this “Mana” (so called upper caste Mana) take advantage of similarity of name and pose themselves as candidates belonging to “Mana” Scheduled Tribe. However, this observation of Committee is not supported by any evidence. The

Committee has not pointed out any case law or any other material which holds that a caste by name “Mana” exists independent of “Mana” Scheduled Tribe. In absence of this material, a general observation as mentioned supra, cannot have the effect of ignoring validities earlier granted.

14. The petitioners have rightly pointed out that in order dated 30th July, 2018, while invalidating caste claim of Ku. Mayuri and Ku. Shrawani Dandekar, the Committee has inadvertently observed that in documents of relatives, the inconsistent entries recording caste as “Mane” are found. No such document is, however, looked into by Committee in its order. Ku. Mayuri is the petitioner in Writ Petition No. 5172 of 2018.

15. In this situation, adopting the judgments delivered earlier by this Court, we quash and set aside impugned orders. The Committee is directed to issue validity to petitioners as “Mana” Scheduled Tribe forthwith.

15. Rule is made absolute accordingly. No order as to costs.

JUDGE

JUDGE

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