



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

WRIT PETITION NO. 5429 OF 2018.

1. Ashvini d/o Ramesh Shrirame,
Aged 24 years, Occ – Student,
r/o. Khaperkheda, District
Nagpur.
2. Bhushan s/o Ramesh Shrirame,
Aged about 18 years,
r/o. Khaperkheda, District
Nagpur.
3. Piyush Naresh Shrirame,
Aged 19 years, Occ – Student,
r/o. Khaperkheda, District
Nagpur.

... **PETITIONERS.**

VERSUS

1. The Scheduled Tribes Caste
Certificate Scrutiny Committee
through its Member Secretary,
Gadchiroli
2. Welingkar Institute of Management
and Research, Lekhasmi Nappoo Road,
Opp Matunga Gymkhana, Matunga
Mumbai 400 019.
3. Vishwakarma Institute of Technology
666, Upper Indira Nagar, Bibvewadi,
Pune 411 037.
4. Directorate of Technical Education
Maharashtra State, through its Director,
3, Mahapalika Marg, Elphinstone
Technical High School, Mumbai

400 001.

... **RESPONDENTS.**

Shri R.S. Parsodkar, Advocate for Petitioners.
Ms. M.A. Barabde, AGP for Respondent Nos. 1 and 4.

**CORAM : B.P. DHARMADHIKARI
& M. G. GIRATKAR, JJ.**

DATED : AUGUST 31, 2018

ORAL JUDGMENT (PER B.P. DHARMADHIKARI, J.) :

Petitioner Nos. 1 and 2 are Sister and Brother and children of Ramesh Shrirame. Petitioner No.3 Piyush is their cousin and son of Naresh Shrirame. It is not in dispute that Ramesh and Naresh are real brothers.

2. Caste claim of all these three petitioners as “Mana Scheduled Tribes” is invalidated by a common order dated 10.08.2018, by the Scrutiny Committee. Considering the controversy involved and its nature, Writ Petition is taken up for final disposal by dispensing with service upon respondent nos. 2 and 3. Rule is therefore made returnable forthwith by consent of learned counsel for petitioners and learned A.G.P. appearing for respondent nos. 1 and 4.

3. Shri Parsodkar, learned Counsel for petitioners submits that all documents consistently record caste as Mana only and none of them is found interpolated. He further states that there are 7 validities in the family, and the same are discarded mechanically, by observing that the validities were issued ignoring the adverse police vigilance report. He contends that the impugned order therefore, shows total non-application of mind and are, unsustainable.

4. Ms. Barabde, learned A.G.P. appearing on behalf of respondent nos. 1 and 4, submits that earlier validities have been rightly discarded as the vigilance report then did not support its issuance. It is further contended that there is no vigilance enquiry while giving validity to Naresh Shrirame i.e. father of petitioner no.3.

5. On 27.08.2018, as education of petitioners was at stake, we have asked the learned A.G.P. to make available the records and proceedings of respondent no.1 Committee for our perusal. Accordingly records and proceedings has been made available and it is also looked into by the learned counsel for petitioners.

6. We find substance in contentions of petitioners that reason given to discard 7 validities in the family is unsustainable. Those validities are annexed along with the writ petition. Police

vigilance report dated 08.09.2003, in case of Ramesh Shrirame does not disclose discovery of any adverse material i.e. documents in which some other caste was recorded or then, any interpolation or tampering of old records, noticed. The impugned order of the Committee dated 10.08.2018, does not mention that while giving validity to Naresh, no vigilance enquiry was conducted. This position is being disclosed for the first time today in the court.

7. Thus, the act of discarding validity given to Naresh earlier is again without application of mind. Petitioners have relied upon validities given to uncles and other relatives. Validities are given on different dates. There has to be vigilance enquiry, on different dates in relation to these validities. The observations of the Scrutiny Committee that the validities have been issued ignoring adverse vigilance enquiry report, cannot be brushed aside lightly. The vigilance report in the matter of Ramesh does not show any adverse material. Other vigilance reports are not made available for our perusal, but, according to the learned A.G.P. they are on same lines.

8. Vigilance enquiries conducted through police cell and vigilance authorities can verify the correctness or otherwise of the Family tree, relationship and ascertain traits and customs. Findings

on affinity has to be by the Scrutiny Committee only. The vigilance authorities may also record some conclusion, but, again that conclusion is not binding on the committee, because decision on caste claim is statutorily to be taken by the committee only. We therefore, do not see any adverse police vigilance report to support the action of rejection of 7 validities in the family.

9. In this situation, when there are 7 validities in the family and the Committee has discarded the same for non-existent reasons, and there are no adverse documents or adverse finding in the impugned order, we find that petitioners are entitled to grant of validity as belonging to “Mana Scheduled Tribes” candidates.

10. Accordingly we direct respondent no.1 Scrutiny Committee to forthwith issue such validities to petitioners so as to enable them to continue to prosecute their education further. The impugned order dated 16.08.2018, passed by the Scrutiny Committee is therefore, quashed and set aside. Writ Petition is accordingly allowed. Rule is made absolute in aforesaid terms, with no order as to costs.

JUDGE

JUDGE

Rgd.