



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

Writ Petition No. 5481 of 2018

Petitioner :

Manisha D/o Pundlik Dadmal
Aged about 20 yrs, Occ. Student,
R/o Shiraspur, Post – Shivra,
Tah. Chimur, Distt. Chandrapur.

// Versus //

Respondents :-

- (1) The Vice-Chairman / Member
Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee,
Gadchiroli.
- (2) The Principal,
P. R. Potel Patil College of
Engineering & Management,
Amravati.
- (3) The Vice-Chancellor/Registrar,
Sant Gadge Baba University,
Amravati.
- (4) The Directorate of Technical
Education, Mumbai.
- (5) The State Common Entrance Test
Cell, Maharashtra State, Mumbai
thr. its Commissioner.

Ms. Preeti D. Rane, Advocate for the petitioner
Shri P. S. Tembhare, Assistant Government Pleader for the
respondent no. 1 and 4
Shri N. S. Khubalkar, Advocate for the respondent no. 5
None for the respondent nos. 2 and 3

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

DATE : 30-8-2018.

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

Rule. Rule made returnable forthwith. Heard finally.

2. The matter can be conveniently disposed of by adopting the judgment delivered today in Writ Petition No. 5171/2018 and other connected matters. However, here learned Assistant Government Pleader is relying upon findings of Committee on point no. 5 in an effort to point out difference between 'Mana' Caste and 'Mana' Tribe.

3. Otherwise, the fact that all old documents mentioned caste as 'Mana' is not in dispute. Oldest document recording caste of great grandfather in 1918-1919 as 'Mana' is also not in dispute.

4. Since there is no validity in the family and petitioner appears to be first who is aspiring for the degree and seeks admission in engineering course, matter has reached this Court.

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5. Perusal of order of Committee shows that only because of availability of 'Mana' community/caste amongst 'Kunbi', the caste claim has been invalidated after applying affinity test.

6. The counsel for petitioner has invited our attention to judgment of Division Bench of this Court reported at **2018(2) Mh.L.J. 460** in the case of **Gajanan S/o Pandurang Shende Vs. Head-Master, Govt. Ashram School, Dongargaon Salod and others** and unreported judgment of Division Bench of this Court at Nagpur in the case of **Gitesh s/o Narendra Ghormare Vs. The Scheduled Tribe Certificate Scrutiny Committee, Nagpur and ors.** in Writ Petition No. 7000/2017 dated 2-7-2018. One of us (Hon'ble Shri M. G. Giratkar, J.) is party to the reported judgment.

7. In the reported judgment in the case of **Gajanan S/o Pandurang Shende Vs. Head-Master, Govt. Ashram School, Dongargaon Salod and others (supra)**, paragraph nos. 18 and 19 show a finding that Committee committed an error in rejecting tribe claim by holding that documents produced by Gajanan simply indicate the caste 'Mana' and not 'Mana, Scheduled Tribe'. The

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Division Bench finds that 'Mana' community is included in entry No. 18 of the Constitution (Scheduled Tribes) Order, 1950 and it is not permissible to artificially sub-divide or sub-classify the same into different groups, like 'Badwaik Mana', Khand Mana', Kshatriya Mana', Kunbi Mana', 'Maratha Mana', Gond Mana', 'Mani/Mane' etc. Observations in paragraph no. 19 by Division Bench are in consonance with this finding in paragraph no. 18.

8. In Writ Petition No. 7000/2017, the Division Bench has again reached to similar findings. In paragraph no. 13, earlier order passed on 27-6-2018 by that Division Bench is reproduced. Time was given to Scrutiny Committee to answer the question and the matter was taken on next day. On next day, learned Assistant Government Pleader then appearing for Committee confirmed that there was no separate caste or tribe called as 'Patil Mana' or 'Patil'. The Division Bench has also recorded that upon instructions from Committee, learned Assistant Government Pleader then made statement that there was no separate caste or tribe by name 'Mana Kunbi' included in the list of Scheduled Caste, Scheduled Tribe, Other Backward Class or Special Backward Class category. In

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paragraph nos. 17 and 18, the said Division Bench has commented further on this aspect. In present matter, it is not necessary for us to dwell more into it.

9. The relevant portion appearing in sub-paragraph (B) in impugned order of Scrutiny Committee contains a chart and it reproduces certain facts or figures with reference to Government Gazette. The oldest gazette mentioned there is of year 1869-1870. Paragraph or part 136 is reproduced in last column. This portion reads as under :-

136. Koonbees from the Largest, the most important, and the sturdiest portion of the Hindoo land cultivator community so much so that Koonbee has come to the synonymous with agriculturist and it is no uncommon thing to hear farmer of Brahmin or other caste describe himself as a "Koonbee Manna".

Perusal of this portion, therefore, shows that Koonbee had become synonymous then with agriculturist and even farmers of Brahmin or other castes describe themselves as 'Koonbee Manna'. Other part of said chart then refers to Anthropometric Measurements of Maharashtra by authors like Irawati Karwe and Vishnu Mahadeo

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Dandekar. Little later in this chart against serial no. 3 while extracting some portion from Gazetteer of India Maharashtra State – Nagpur District (Revised Edition) (First Edition 1908 and Second Edition (Revised 1966) under the heading “People of Hindu Caste mentioned as Mana agriculturist”, it is recorded that (i) Manes and Dhanojes are the lowest sub-divisions (ii) Manes appear to be Manas who have become Kunbis. These portions relied upon by Committee, therefore, show that the Committee itself has found that Manas who have become Kunbis were recognized as Manes.

10. Though there is no other material to support these recitals in Government Gazette, the position prevailing prior to 1869-1870 or in 1908, therefore, shows that then people from other castes/tribes were presenting themselves as 'Kunbi Manas'. If Manes are original Manas, we failed to understand as to how finding of document recording caste as 'Mane' can itself be fatal to the caste claim.

11. There is, therefore, no cogent material available before this Court in the present matter to hold that any caste by name,

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'Mana Kunbi', 'Mana Khand', 'Kunbi' independently existed. However, looking to references in old documents, we leave that question open for further consideration in more appropriate matter. In the present case, Committee could not get any material to show that petitioner does not belong to 'Mana', Scheduled Tribe.

12. Hence, adopting the reasons recorded in judgment delivered in Writ Petition No. 5171/2018 and other connected matters today, we set aside the order of Committee dated 6-8-2018 and direct respondent no. 1 - Committee to grant validity forthwith to petitioner.

13. Rule made absolute accordingly. No costs.

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