



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

**WRIT PETITION NO. 7027 OF 2017**

Nahush Sanjio Dodke,  
aged about 19 years, Occ. Student,  
R/o. Plot No. 28, "Saudamini",  
Saraswati Nagar, Uday Nagar Chowk,  
Manewada, Nagpur.

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**PETITIONER**

**...VERSUS...**

1. The State of Maharashtra,  
Through its Principal Secretary,  
Tribal Development Department ,  
Mantralaya, Mumbai.
2. Scheduled Tribe Certificate Scrutiny  
Committee, Gadchiroli, through its  
Chairman, Committee for Scheduled  
Tribe Claims, Office at Complex Area,  
Gadchiroli, Tq. And Distt. Gadchiroli.
3. Director of Medical Education and  
Research, Mumbai, Office at Govt.  
Dental College, Saint Georges'  
Hospital Campus, Forte, Mumbai.
4. Commissioner and Competent Authority  
State Common Entrance Test Cell (CET),  
Maharashtra State Mumbai, Office at  
305, Govt. Polytechnic Building,  
Kherwadi, Aliyaware Jung Marg,  
Bandra (East), Mumbai
5. Maharashtra University of Health  
Science, Nashik, Wani Road,  
Mashrul, Nashik.
6. Dean, Indira Gandhi Medical

College, Central Avenue Road,  
Nagpur.

7. Sub Divisional Officer, Warora,  
Tahsil Warora, Ditt. Chandrapur

8. The Collector, Chandrapur,  
Collectorate, Chandrapur

..... **RESPONDENTS**

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Shri P.P.Dhok, counsel for Petitioner.

Shri M.J.Khan, AGP for Respondents Nos. 1 to 4 and 6 to 8  
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**CORAM: R. K. DESHPANDE, AND**

**ARUN D UPADHYE, JJ.**

**DATE : 6<sup>th</sup> SEPTEMBER, 2018 .**

**ORAL JUDGMENT (P.C.)**

1] The challenge in this petition is to the invalidation of the petitioner's claim on 17.10.2017 for Mana – Scheduled Tribe, which is an entry at Sr. No. 18 of the Constitution (Scheduled Tribe) Order, 1950.

2] The petitioner produced before the Committee, 26 documents in support of his caste claim for Mana – Scheduled Tribe. Amongst these documents, the documents at Sr. Nos. 12, 13, 14 and 15 are in the name of Nathu Ghularam Dodke, the grand father of the petitioner, showing caste entry as 'Mana' on 15.09.1944 and 13.06.1946. The caste validity certificate issued in the name of Koustubh, real brother of the petitioner, validating his claim

for Mana – Scheduled Tribe on 22.06.2011 and in the name of Rajio, uncle of the petitioner issued on 03.11.2006, were also produced on record. The Committee has invalidated the caste claim of the petitioner holding that the affinity test has not been satisfied and that the entries are synonymous with the tribe 'Mana', which is not a 'Scheduled Tribe'.

3] The undisputed position is that all the documents produced by the petitioner show the caste entry as 'Mana' and there is not even a single document showing the entry other than 'Mana'. The petitioner has produced on record the document at Sr. Nos. 12 to 15, referred to above, of the period prior to 1950, having probative value, showing the caste of his blood relatives as Mana – Scheduled Tribe. We, therefore, hold that on the basis of the documents produced on record, the petitioner has established his claim for Mana – Scheduled Tribe, which matches with the entry 'Mana' at Sr. No. 18 in the Constitution (Scheduled Tribes) Order, 1950. The Committee was, therefore, in error in rejecting the claim of the petitioner on the basis of the documents.

4] The Police Vigilance Cell has recorded the finding in its report that they were not having any tests

characteristics, customs prevailing in Mana – Scheduled Tribe so as to compare it with the documents possessed by the family of the petitioner. It is not known on what basis the Committee has recorded the finding that the petitioner has failed to establish affinity test. In view of the decision of the Apex Court in *Anand vrs. Committee for Scrutiny and Verification of Tribe Claims* reported in **2011(6) Mh.L.J. (S.C.) 919**, there was no propriety and justification for the Committee to apply the affinity test if at all there is any to reject the claim based upon the documents having probative value.

5] The said Committee issued the validity certificate in the name of real brother and uncle of the petitioner for Mana – Scheduled Tribe. In view of the decision of the Division Bench in case of *Approva Vinay Nichale vrs. Divisional Caste Certificate Scrutiny Committee No.1 and others*, reported in **2010 (6) Mh.L.J. 401**, the Committee could not have rejected the claim for grant of validity, particularly when the brother and the uncle who are blood relatives have been granted caste validity certificate. The order passed by the Committee cannot, therefore, be

sustained.

6] In view of above, the petitioner has established his claim for Mana – Scheduled Tribe, which is an entry at Sr. No. 18 in the Constitution (Scheduled Tribe) Order, 1950, on the basis of the documents produced on record as well as the validity certificates issued in the name of the blood relatives. The petitioner is entitled to grant of validity certificate.

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

[I] The order dated 17.10.2017 passed by the Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli, is hereby quashed and set aside.

[II] The claim of the petitioner for Mana – Scheduled Tribe, which is an entry at Sr. No. 18 of the Constitution (Scheduled Tribe) Order, 1950 is held to be valid.

[III] The Committee is directed to issue the caste validity certificate accordingly to the petitioner within the period of one month from today.

8] The admission of the petitioner was cancelled to the M.B.B.S course and another candidate belonging to the Scheduled Tribe category was admitted during the academic session 2017-18 and hence, the petitioner is not entitled to continue with the M.B.B.S. course for that session. However, we make it clear that if the petitioner is entitled to be admitted in the next academic session on the basis of the performance in NEET examination and is otherwise entitled to on the basis of Scheduled Tribe category, this order shall not come in the way of the petitioner.

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

Civil application, if any stands disposed of.

**JUDGE**

**JUDGE**

Rvjalit