



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

WRIT PETITION NO. 7558 OF 2018

Archana d/o Shamraoji Dandekar
(Sau. Archana w/o Suresh Ghodmare),
Age about 35 years, Occ. - Service,
R/o Teachers Colony, Near Sunil
Patwari House, At Post-Chandur Rly.,
District Amravati.

.... **PETITIONER**

VERSUS

- 1) The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Irwin Chowk,
Amravati.
- 2) The Zilla Parishad,
Amravati, through its Chief Executive
Officer.
- 3) The Education Officer (Primary),
Zilla Parishad, Amravati.
- 4) The Block Education Officer,
Panchayat Samiti, Chandur Rly.,
Zilla Parishad, Amravati.

.... **RESPONDENTS**

Ms. Preeti D. Rane, Counsel for the petitioner,
Mr. N.S. Rao, A.G.P for the respondent/State,
Mr. J.B. Kasat, Counsel for respondent Nos.2 and 3.

**CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.**

DATE OF RESERVING THE JUDGMENT : 12-8-2024

DATE OF PRONOUNCEMENT OF THE JUDGMENT : 30-8-2024

JUDGMENT : (Per : Abhay J. Mantri, J.)

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

2. The challenge raised to the order dated 26-07-2018 passed by respondent No.1-Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for short, "*the Committee*"), whereby the claim of the petitioner that she belongs to "**Mana**" Scheduled Tribe was rejected.

3. The petitioner claims that she belongs to the 'Mana' Scheduled Tribe. Accordingly, on 29-12-2005, the Sub-Divisional Officer, Chandur Railway, issued a Caste Certificate in her favour.

4. The petitioner was appointed to the Shikshan Sevak post on 13-06-2006 against the reserved category for the Scheduled Tribes. After three years of probation, she was discontinued for want of a Validity Certificate. Therefore, she approached this Court in Writ Petition No. 2987/2010. This Court, by order dated 28-10-2010, directed the respondent Committee to decide the caste claim of the petitioner within a period of eight weeks and shall communicate the decision to the parties. Also, the petitioner's services were protected

during the pendency of the Committee's decision. The petitioner, through the Education Officer, had submitted her Caste Certificate and documents before the Committee for verification.

5. After considering the documents, the Committee was dissatisfied with the petitioner's claim. Therefore, the Committee forwarded the same to the Vigilance Cell for a detailed enquiry under Rule 12(2) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short, "*the Act*"). After a thorough enquiry, the Vigilance Cell submitted its report to the Committee on 21-12-2010. During the vigilance cell enquiry, the Committee discovered three documents from 1913, 1914 and 1949 pertaining to the petitioner's great-grandfather, cousin-great-grandfather, and cousin-grandfather, wherein their caste was recorded as "***Mana Kunbi***". Those documents are of the pre-constitutional era. Likewise, one more document of the year 1955 pertains to the uncle of the petitioner, wherein his caste is recorded as "***Mana Kunbi***". Therefore, the petitioner was called upon to explain the said adverse entries. The petitioner responded to the same by filing explanations dated 04-01-2011 and 25-01-2011. In the explanations, she categorically

contended that she had no concerns with the entries for 1913 and 1914. Thus, she disputed the said entries. After that, again, on 18-04-2018, she filed additional submissions regarding her caste claim.

6. Considering the vigilance cell report, explanations, additional submissions of the petitioner, and the documents on record, the Committee has invalidated the petitioner's caste claim, holding that the petitioner failed to prove that she belongs to the '*Mana*' Scheduled Tribe. Hence, the petitioner has preferred this petition.

7. As against respondent No.1-Committee has resisted the claim of the petitioner on the ground that during vigilance cell enquiry, the vigilance cell found four documents from the years 1913 to 1938 pertain to great-grandfather Shiva, cousin great-grandfather, cousin grandfather of the petitioner wherein their caste was recorded as "*Mana Kunbi*" and "*Mani*". The documents of the years 1913 and 1914 are the oldest ones. Therefore, those documents have more probative value. Thus, the petitioner has failed to demonstrate that she belongs to the '*Mana*' Scheduled Tribe. As such, it is urged that the petition be dismissed.

8. Ms. Preeti Rane, learned Counsel for the petitioner, has strenuously argued the matter at length. In addition to the argument, she filed written notes of arguments and the judgments that were relied on in support of her submissions. She mainly emphasises that the petitioner has no concern with the persons whose documents from 1913 and 1914 have been discovered by the Vigilance Cell. Therefore, those documents cannot be taken into consideration. As against, the petitioner has produced the document dated 24-08-1919, which pertains to his great-grandfather Shiva. The said document is from the pre-constitutional era and has great probative value. In the said document, his great-grandfather's caste was recorded as "*Mana*". As such, the petitioner has discharged the burden cast on her to prove her caste as '*Mana*' Scheduled Tribe.

9. She has drawn our attention to the family tree and the entries in the vigilance cell report. As such, she alternatively argues that the entry of the year 1913 pertains to one Bhiva, who was not concerned with the petitioner's family. The entry of 1914 does not pertain to the petitioner's family and, therefore, denied those entries.

10. She further canvassed that Shiva had two sons, Mahadeo and Bajirao. Mahadeo was the petitioner's real grandfather, and Bajirao was the petitioner's cousin's grandfather. So, even if assumed that the

entry of the year 1914 pertains to cousin grandfather Bajirao and the entry of the year 1919 pertains to his real grandfather Mahadeo, in that eventuality also, the entry relating to the real grandfather Mahadeo has to be taken into consideration than the cousin grandfather Bajirao. Therefore, she has submitted that the said entry pertains to her cousin grandfather, which could not be helpful to the Committee in discarding the petitioner's claim.

11. She has further contended that Mahadeo was born to Shiva on 24-08-2019, and since the said document is the oldest and pre-constitutional era document, it has a more probative value. The said entry denotes a first-degree relationship with the petitioner's family, and being the real grandfather, the caste of the great-grandfather should apply to the claim of the petitioner and entry of the year 1914 procured by the Vigilance Cell depicts that one son was born to Shiva Mana. Therefore, she urged that the petitioner discharged the burden cast on her under Section 8 of the Act as her father's and real grandfather's documents have much more weightage than her cousins' documents. Therefore, she propounded that the documents pertaining to her real grandfather of 1919 have much weightage compared to the document of 1914. As such, the document of 1914 could not be taken into consideration while dealing with the petitioner's claim.

12. To buttress her submissions, she has relied upon the following authorities in the matters of :-

- (a) *Kumari Madhuri Patil and another v. Additional Commissioner, Tribal Development and others, AIR 1995 SC 94, particularly paragraph No.10;*
- (b) *Mr. Nilesh s/o Rangrao Narnaware and another v. Vice Chairman and Member Secretary, the Scheduled Tribe Certificate Scrutiny Committee, Amravati and others in Writ Petition No.5758/2022 decided on 18-1-2024, particularly paragraph Nos.7,11 and 13;*
- (c) *Mr. Khushraj s/o Maroti Dandekar v. Deputy Director and Member Secretary, the Scheduled Tribe Certificate Scrutiny Committee, Yavatmal and others in Writ Petition No.2828/2024 decided on 18-6-2024, particularly paragraph Nos.7,13,15,25 and 28;*
- (d) *Mr. Vardesh s/o Pratap Bagde vs. Vice Chairman & Member Secretary, the Scheduled Tribe Certificate Scrutiny Committee, Amravati, and others in Writ Petition No.3044/2022 decided on 11-1-2024, particularly paragraph No.12, and*
- (e) *Priya Pramod Gajbe v. The State of Maharashtra and others, 2023 (10) Scale 426, particularly paragraph No.10.*

13. Lastly, she invited our attention to the provisions of the Act and Rules, viz. Section 8 of the Act, the definition of “*relative*” under Rule 2(f), Rule 3, Rule 3(3), and Rule 4 and thereby she tried to canvass that ‘*relative*’ means ‘blood relatives’, i.e. real grandfather. Thus, the petitioner has discharged the burden cast on her under Section 8 of the Act. However, the Committee has not considered the said document and the provisions of law and rules and erred in

rejecting the petitioner's claim. Hence, she urged for allowing the petition.

14. *Per contra*, Mr. N.S. Rao learned Assistant Government Pleader, has vehemently contended that during the vigilance cell enquiry, the Committee noticed four adverse entries pertaining to her great-grandfather, cousin great-grandfather from 1913 to 1938, wherein their caste was recorded as “**Mana Kunbi**” and “**Mane**”. Those documents are from the pre-constitutional era and have more probative value. He further argued that the document of 1919 on which the petitioner is relying is subsequent to those of 1913 and 1914. The petitioner claims that the entry dated 24-08-2019 pertains to his real grandfather, Mahadeo, which denotes that one son was born to Shiva. The petitioner asserts that said boy was no one else than Mahadeo. However, the petitioner has not produced any authentic document supporting her submission that the said entry pertains to her real grandfather, Mahadeo. The family tree reflects that Shiva had two sons: Mahadeo and Bajirao. Mahadeo is the petitioner's grandfather, and Bajirao is the petitioner's cousin's grandfather. The petitioner does not dispute the said fact. Therefore, even assuming that the entry to the year 1914 relates to the cousin's grandfather, in that case also, it cannot be said that the petitioner discharged her burden as contemplated under Section 8 of the Act.

15. He has further submitted that earlier in the year 2006, the petitioner's sister Neeta applied for a grant of validity certificate to the Committee. At that time, documents from 1913 and 1914 were also discovered by the Vigilance Cell, and an explanation of Neeta was called upon. The father of the petitioner, namely Shamrao, appeared before the Committee and filed an explanation to the said show cause notice on 22-03-2007 wherein he admitted: "*that entries of the years 1913, 1914, 1919 and 1937 pertain to his ancestors, and they are his blood relatives.*" Therefore, he contended that the petitioner failed to discharge the burden cast on her that she belongs to the 'Mana' Scheduled Tribe. Lastly, he submitted that the facts in the authorities on which the petitioner is relying are different from the case in hand and, therefore, the dictum laid down in the said authorities is of hardly any assistance to the petitioner in support of her claim. Hence, he urged for the dismissal of the petition.

16. We have heard the learned Counsel for the parties at length and appreciated their submissions. We have gone through the record and written notes of arguments and judgments relied on by the petitioner in support of her claim.

17. At the outset, it appears that the petitioner, in support of her claim, has produced fourteen documents, out of which one document dated 24-08-2019 pertains to her great-grandfather Shiva. The said entry indicates a son born to Shiva; therefore, the petitioner relied on the said entry to support her claim. However, the Vigilance Cell, during the enquiry, discovered four documents from the years 1913 to 1938, contending that said documents of the cousin's great-grandfather, great-grandfather and cousin-grandfather. All these five entries, as well as the entry of the year 1919 and three additional entries, are obtained from the Birth and Death Register. The said entries are as follows:-

- (i) The **first** entry, dated **09-01-1913**, denotes that one son was born to **Bhiva**, "**Mana Kunbi**."
- (ii) The **second** entry, dated **04-07-1914**, shows that one son was born to **Shiva** "**Mana Kunbi**."
- (iii) The **third** entry, dated **24-08-2019**, depicts that one more son was born to **Shiva** "**Mana**."
- (iv) The **fourth** entry, dated **21-02-1937**, indicates that one son (Vitthal) was born to **Baja s/o Shiva**, "**Mane**", and
- (v) Last **fifth** entry, dated **27-10-1938**, pertains to the death of **Vitthal s/o Baja** "**Mane Kunabi**," and his age was shown as 1 ½ years.

Three additional entries were found, those are as follows:-

- (vi) The **Sixth** entry, dated **04-08-1942**, shows the death of **Shanti d/o Mahadeo “Mani Kunbi.”**
- (vii) The **seventh** entry, dated **16-08-1947**, pertains to the death of **Mahadeo s/o Shiva “Mani”.**
- (viii) The **Eighth** entry, dated **28-09-1949**, shows that one son was born to **Bajya S/o Shiva “Mani Ku.”**

18. It is pertinent to note that the petitioner’s father, Shamrao, has given a family tree in which he discloses that Mahadeo is his father, Bajirao is his uncle, and Bajirao has two sons.

19. It further appears from the record that in 2006, the sister of the petitioner, Neeta, had applied for a grant of Validity Certificate. At that time, on 31-07-2006, the Vigilance Cell, after conducting the enquiry, had submitted its report to the Committee. The then Committee vide show cause notice dated 24-02-2007 called upon her explanation. The father of Neeta and the petitioner-Archana, namely Shamrao, had filed an explanation to the said notice, *“wherein he categorically asserted that entries of the years 1913, 1914, 1919 and 1937 are of his ancestors and blood relatives.”* It is to be noted that he had neither disputed those documents nor denied his relationship with the persons mentioned in those documents. The first time he filed his explanation

was on 22-03-2007, whereby he admitted that those documents pertain to his ancestors. While replying, to counter the entries of the years 1913 and 1914, wherein the caste of his ancestors was recorded as “**Mana Kunbi**,” for the first time, he explained that their occupation was agriculture/agricultural labourer. Hence, ‘**kunbi**’ is suffixed with ‘**Mana**’, and, as such, the entry denotes ‘**Mana Kunbi**’ in their caste. But he has neither disputed nor denied those entries. That being so, there is no reason to discard the said documents.

20. Subsequently, by filing explanations in the case of the petitioner on 04-01-2011 and 25-01-2011 and additional submissions dated 02-04-2018 and 18-04-2018, the petitioner tried to dispute the entries of the years 1913 and 1914, contending that she has no concern with those entries and the person mentioned therein. She further stated that the entry of the year 1913 pertains to **Bhiva**, with whom she has no concerns. However, the entries for the years 1914, 1937, and 1938 have not been categorically denied or disputed but tried to claim that said entries do not pertain to her blood relatives or that she has no concern with the said entries. Alternatively, it was argued by the learned Counsel for the petitioner that assuming the entry of the year 1914 pertains to his blood relative, in that case, also said entry relates to his cousin's grandfather and not the real grandfather. Therefore,

no importance can be given to the said entry. She emphasises that Mahadeo was the real grandfather of the petitioner, and the document of the year 1919 shows that Mahadeo was born to Shiva, wherein his caste was recorded as '**Mana**' has to be taken into consideration instead of the entry of her cousin-grandfather. However, no document has been produced by the petitioner on record to demonstrate that in 1914 or 1919, which son was born to Shiva, whether Mahadeo or Bajirao? Besides, it is not the case of the petitioner that Mahadeo was the younger son of Shiva. But merely based on the entry recorded in the Aadhar Card, the learned Counsel for the petitioner asserted that the entry of the year 1919 pertains to the petitioner's grandfather. Having considered the documentary evidence and the explanation given by Shamrao in the case of Neeta before the Committee, we do not find substance in the contentions of the learned Counsel for the petitioner in that regard.

21. Thus, in the light of the explanation dated 22-3-2007 submitted by the father of the petitioner to the show cause notice dated 24-02-2007 in clear terms it reveals that the father of the petitioner, Shamrao, has not disputed his relationship with Shiva, Bhiva and Vitthal (Bajirao). He has admitted that they were his ancestors and blood relatives. He has neither disputed nor denied the said document

at the first instance when he got an opportunity to explain. Besides, the petitioner is not disputing her relationship with said persons i.e. her great-grandfather. She has disclosed the names of said persons in the family tree. On careful perusal, the entry dated 04-07-1914, same indicates that a son was born to Shiva, “**Mana Kunbi.**” Name or details of such son is not mentioned therein viz. whether it was ‘Mahadev’ or ‘Bajirao’. Neither the petitioner nor her father denied their relationship with Shiva. Therefore, there is no reason to disbelieve the said entry or evidence as it cannot be said that the petitioner has no concern or rein with the person mentioned therein. On the contrary, the record denotes that the said entry is relevant while considering the petitioner's claim. However, the petitioner failed to explain the said adverse entry rather vaguely denied the same. In such an eventuality, considering the explanation of the father of the petitioner tendered on dated 22-03-2007, we are of the view that the petitioner has failed to explain the said adverse entry. Hence, the petitioner has failed to discharge the burden cast on her as contemplated under Section 8 of the Act.

22. The petitioner has relied on the observations made in the case of ***Kumari Madhuri Patil and another*** (cited supra) and canvassed that the oldest entry relating to her great-grandfather, i.e. of the year 1919, carries a greater probative value than the other documents. However,

as discussed above, the petitioner has failed to demonstrate that the entry of the year 1919 is the oldest one; on the contrary, evidence on record depicts that the entries of the year 1914 are the oldest one, which denotes that the petitioner's ancestors belonged to "**Mana Kunbi**." Hence, the observations made in the judgment above are hardly of any assistance to the petitioner, but they support the finding of the Committee.

23. The learned Counsel for the petitioner has drawn support from the judgment in the case of **Nilesh s/o Rangrao Narnaware** (cited supra), particularly paragraphs Nos.7, 11 and 13 and tried to canvass that as observed by the Division Bench of this Court in the said judgment, the pre-constitutional era documents "**Mana**" has more probative value. In the said case, the facts were that one "**Mani**" entry was recorded before entry "**Mana**", and on the said ground, the Committee rejected the petitioner's claim in the said case. However, the Hon'ble Apex Court, in the case of **Priya Pramod Gajbe**, has clarified that there is no caste name as "**Mani**" and, therefore, "**Mani**" has to be read as "**Mana**" and in view of the said observations of the Hon'ble Apex Court, this Court has set aside the order of the Committee and granted the Validity in his favour.

24. In the case in hand, the documents on record show that

during the vigilance cell enquiry, “*Mana Kunbi*” entry was found by the vigilance cell and, therefore, the observations in the said judgment are not helpful to the petitioner in support of her claim.

25. Learned counsel has drawn support from observations made in paragraph Nos. 7,13,15,25 and 28 of the judgment in W. P. No.2828 of 2024, as well as paragraph No.12 of the judgment passed in W. P. No.3044 of 2022, and tried to emphasize that in both the decisions, this Court, while dealing with the entry “*Mana Kunbi*” has observed that the said entry might have been wrongly inserted or incorrectly written and, therefore, she submitted that said observations are applicable in the case in hand. It is pertinent to note that this Court, in Writ Petition No.2828 of 2024, rejected the claim of the petitioner that the petitioner therein belongs to the “*Mana*” Scheduled Tribe, holding that the petitioner failed to discharge the burden as contemplated under Section 8 of the Act. The petitioner in Writ Petition No.3044 of 2022 produced the pre-independence era documents of 1913 and 1917 to support his claim, wherein his caste was recorded as “*Mana*”. In the said case, some entries subsequent to these entries were found adverse to “*Mana*” entries as ‘*Mana Kunbi*.’ Therefore, as per the settled legal position, this Court has given the greatest probative value to the old documents of 1913 and 1917 instead of the subsequent entry

of ‘*Mana Kunbi*’. Therefore, the observations made in both the judgments referred to above are not helpful to the petitioner to substantiate her claim.

26. Ms. Rane has further invited our attention to the case of *Priya Pramod Gajbe (cited supra)* and submitted that in view of the observations in paragraph No.10 of the said judgment, the entry “*Mana Kunbi*” be read as “*Mana*” Schedule Tribe. It is pertinent to note that the Full Bench of this Court in the matter of *Maroti s/o Vyankati Gaikwad and others v. Dy. Director & Member Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati and others* reported in *AIR Online 2023 BOM 1849*, after considering the judgment in the case of *Priya Pramod Gajbe*, has held that “*Mane Kunbi*”, “*Mani/Mane*” and “*Mani Ku.*” cannot be held to be included in the ‘*Mana*’ Scheduled Tribe, in Entry No.18 in the Presidential (ST) Order 1950 and, thus cannot claim the status of a Schedule Tribe. Consequently, we do not find substance in the submissions made by the learned Counsel for the petitioner in that regard.

27. Thus, having considered the discussion above, it is evident that during the vigilance cell enquiry, the Vigilance Cell discovered the documents of the years 1913 and 1914 wherein the caste of the ancestors of the petitioner is recorded as “*Mana Kunbi*”. The petitioner

failed to explain the said adverse entries. *Per contra*, while submitting the explanation on 22-03-2007, the petitioner's father has not disputed the adverse entries or his relationship with them but tried to explain that '*Kunbi*' was their occupation and, therefore, the same is suffixed with their caste. However, in view of the law laid down by the Full Bench of this Court in the case of *Maroti s/o Vyankati Gaikwad* (cited *supra*), '*Mana Kunbi*' cannot be said to be included in '*Mana*' Scheduled Tribe in entry No.18 of the Presidential Order. *Likewise*, as per the settled legal position, the Schedule Tribe "*Mana*" in Entry 18 must be read as it is, i.e., '*Mana*' only. In such an eventuality, from the available documentary evidence, it cannot be said that the petitioner has discharged her burden as contemplated under Section 8 of the Act, thereby proving that she belongs to the "*Mana*" Scheduled Tribe.

28. Moreover, as per the explanation of the petitioner's father vide explanation dated 22-03-2007, there is no reason to disbelieve the entries in documents of the years 1913 and 1914. *Furthermore*, assuming the claim of the petitioner that entry of the year 1919 pertains to her grandfather, i.e. son born to Shiva, however, she has not produced any cogent evidence on record in support of her claim. On the contrary, she has not disputed her relationship with great-grandfather Shiva. Therefore, the entry of the year 1914, which was

recorded in the Birth and Death Register, depicts only that one son was born to Shiva “**Mana Kunbi**” and has no reason to disbelieve even assuming that said entry pertains to the cousin grandfather of the petitioner.

29. In this background, in our opinion, the dictum laid down in the afore-cited judgments is hardly of any assistance to the petitioner in support of her claim. *Per contra*, the observations made in the said judgments are against the petitioner's claim and support the finding given by the Committee.

30. In the backdrop above, in our view, the petitioner has failed to discharge the burden that lies on her as contemplated under Section 8 of the Act and failed to demonstrate that she belongs to the ‘**Mana**’ Scheduled Tribe. Rather, the Committee, in our opinion, is justified in recording a finding that the petitioner failed to demonstrate that she belongs to the ‘**Mana**’ Scheduled Tribe.

31. As such, there is no substance in the petition, and it is bereft of merit. Hence, it is dismissed. No order as to costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

The learned Counsel for the petitioner prays for continuation of the interim order for a further period of six weeks.

Having considered the facts of the matter, we deem it appropriate to continue the interim order for a further period of four weeks from today.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

adgokar