

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

WRIT PETITION Nos. 3828, 3829 & 3830 OF 2018.

....

(1) WRIT PETITION NO.3828/2018.

Shivani Manohar Dadmal,
Aged about 17 years, Occupation
Student, through her Natural
Guardian, Father – Manoharrao
Anandrao Dadmal, Aged about 48
Years, Occupation Service
R/o. Near Saint Annis High School,
Sai Krupa Nagari Warora,
(Anandvan), District Chandrapur. ... **PETITIONER.**

VERSUS

1. The Vice Chairman,
Scheduled Tribe Caste Certificate Scrutiny
Committee, Gadchiroli.
2. The Principal,
Government College of Agriculture,
Sonapur, District Gadchiroli.
3. The Vice Chancellor,
Punjabrao Krishi Vidyapeeth
Akola, District Akola. ... **RESPONDENTS.**

Ms. P.D. Rane, Advocate for the Petitioner.
Shri N.R. Patil, A.G.P for Respondent Nos. 1 and 2.
Ms. P.S. Choudhari, Advocate h/f Shri A. Sambre, Advocate
for Respondent No.3.

WITH

(2) WRIT PETITION NO.3829/2018.

Nikhil Manohar Dadmal,
Aged about 23 years, Occupation
Student, R/o. Near Saint Annis
High School, Sai Krupa Nagari
Warora, (Anandvan),
District Chandrapur.

... **PETITIONER.****VERSUS**

The Vice Chairman,
Scheduled Tribe Caste Certificate Scrutiny
Committee, Gadchiroli.

... **RESPONDENT.**

Ms. P.D. Rane, Advocate for the Petitioner.
Shri N.R. Patil, A.G.P for Respondent.

WITH**(3) WRIT PETITION NO.3830/2018.**

Bharat Anandrao Dadmal,
Aged about 40 Years, Occupation
Service, R/o. Chimur,
District Chandrapur.

... **PETITIONER.****VERSUS**

1. The Vice Chairman,
Scheduled Tribe Caste Certificate Scrutiny
Committee, Gadchiroli.
2. The Chief Executive Officer,
Zilla Parishad, Nagpur.

... **RESPONDENTS.**

Ms. P.D. Rane, Advocate for the Petitioner.
Shri N.R. Patil, A.G.P for Respondent No.1.
Shri K.S. Malokar, Advocate for Respondent No.2.

CORAM : R.K. DESHPANDE & VINAY JOSHI, JJ.

DATE : DECEMBER 19, 2018

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

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

2. A common question is involved in all these Writ Petitions, since the caste claim of all the petitioners, has been turned down by the common order dated 13.04.2018, passed by the Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli. Petitioner claims to be belonging to “Mana – Scheduled Tribe”, which is an entry in the cluster of tribes at Sr. No.18 in the Constitution Scheduled Tribes Order, 1950.

3. Petitioner – Shivani, has applied to the Committee on 29.08.2016, for verification of her tribe claim towards Mana – Scheduled Tribe for educational purpose through College. She had obtained a caste certificate issued by the Sub Divisional Officer, Warora on 27.05.2014.

4. Another petitioner – Nikhil, who is real brother of Shivani, has applied to the Committee for verification of his tribe

claim towards Mana – Scheduled Tribe for educational purposes through the Headmaster of the School. He has also obtained caste certificate from Sub Divisional Officer, Warora on 27.05.2014.

5. The third petitioner Bharat, is real uncle of the above two petitioners. He has applied to the Committee for verification of his tribe claim towards Mana – Scheduled Tribe for service purpose, through the Education Officer, Panchayat Samiti, Bhivapur. He has obtained caste certificate issued by the Sub Divisional Officer, Warora on 08.12.2005.

6. Precisely the claim of brother and sister along with their uncle was for verification before the Committee which invalidated all the claims by passing impugned common order dated 13.04.2018.

7. The petitioners have produced in all 35 documents in support of their tribe claim. Most of the documents bears entry of Mana in column meant for caste, whilst in some documents, caste is not mentioned. However, none of the document bears any other caste then Mana. There is no single document showing the caste or tribe other than Mana.

8. The Scrutiny Committee has called police vigilance cell report, gone through the documents and after considering the entire material, invalidated the caste claim of all the petitioners. The vigilance cell has not obtained any documents of the blood relatives of petitioners, to show that some other caste has been mentioned therein. The Committee observed that though in most of the documents caste Mana has been mentioned, however, it cannot be definitely said that they belongs to Scheduled Tribe. Moreover, the Committee observed that the petitioners failed in the affinity test to establish their tribal claim. The Committee though referred to the documents tendered by the petitioners, however, has not denied the genuineness of these documents. The petitioners have produced a copy of extract of P9 in respect of their great grand father of the year 1945. The said document is of pre-independence era having high probative value. The genuineness of the said document is not denied, however, it was not considered.

9. Learned Counsel for petitioners submitted that, rejection of petitioners tribal status is only on the ground of petitioners failure to prove the affinity test. It is submitted that pre-independence documents which are having high probative value are not considered by the Committee. Petitioners submitted that the

affinity test can be used only for the purpose of corroboration, but, certainly not for rejection of claim on said sole ground.

10. Petitioners have produced validity certificate of their blood relative namely Manohar Anandrao Dadmal. The validity placed on record has been distinguished on the ground that the same was issued sans vigilance enquiry. In this regard, observations of this Court in case of **Apoorva Vinay Nichale .vrs. Divisional Caste Certificate Scrutiny Committee No.1 2010 (6) Mh.L.J. 410** are important to note. This Court held that if the caste claim of blood relative has been scrutinized and accepted, then the applicants caste claim should be allowed without insisting on any other proof. Merely a different view on the same fact would not entitle the Committee to dealt with the subsequent caste claim to reject it. Notably it is not the stand of the Committee that the earlier caste validity was obtained by practicing fraud. Therefore, it is apparent that Committee failed to properly appreciate the evidence of validity of blood relatives. The vigilance cell though conducted enquiry, there is no adverse material against the petitioner. The Committee has referred to so many precedents, but on facts expressed that, petitioners failed to establish affinity test. In this regard, we may refer to the decision of Hon'ble Supreme

Court in case of Anand .vrs. Committee for Scrutiny and Verification of Tribes Claim ((2012) 1 SCC 113, wherein it is held that affinity test may not be regarded as a litmus test for establishing the link of applicant with the Scheduled Tribe. Thus, affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject the claim. Therefore, apparently the Committee failed in giving due weightage to the consistent documents of pre-independence era, as against the affinity test, which is having corroborative value.

11. This Court in case of Gajanan Pandurang Shende .vrs. Head master Govt. Ashram School and others 2018 (2) Mh.L.J. 460, has extensively dealt with the issue pertaining to caste tribe claim of “Mana” which is at Sr.No.18 of Constitution (Scheduled Tribes) Order, 1950. It is ruled that the entry Mana at Sr.No.18 must be read as it is, and no evidence can be led to exclude certain communities of Mana from granting protection or benefits. The Committee though found that there are entires of Mana, however, without following the above dictum has distinguished on some unacceptable reasons.

12. In short, documents placed on record having high

probative value, clearly indicated the caste of petitioners or their blood relatives as Mana. Notably, the documents are consistent for years together, that too since from the year 1950, which withstood petitioners claim. There is no valid reason to discard such consistent entries, particularly when they have been reflected to old record. In such a situation, we do not find that any other view is possible in the matter, except to validate the claim of petitioners, who are blood relatives.

13. In the result, we pass the following order.

- (i) Writ Petition Nos.3828, 3829 and 3830 of 2018, stands allowed.
- (ii) The common order passed by the Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli on 13.04.2018, impugned in these petitions, is hereby quashed and set aside.
- (iii) It is declared that petitioners – Shivaji Manohad Dadmal, Nikhil Manohar Dadmal and Sunil Bharat Anandrao Dadmal, having established their claim for “Mana – Scheduled Tribe” which is entry No.18 in the Constitution Scheduled Tribes Order, 1950. Respondent Scrutiny Committee is accordingly, directed to issue validity certificates in their names, within a period of three months from the date of

receipt of this order.

- (iv) Petitioners would be entitled to all the benefits of Scheduled Tribe.

14. Rule is made absolute in aforesaid terms, with no order as to cost.

JUDGE

JUDGE

Rgd.