

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

WRIT PETITION NO.5276/2018

Shashikant s/o Nivrutti Kalmenghe,
Aged about 21 years, Occ. Student,
R/o at Post- Mohabada Road,
Near Baoner Marriage Hall,
Plot No.11, Mohashi Layout, Warora,
District Chandrapur.

..PETITIONER

--Versus --

1. The Vice-Chairman/Member-Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli.
2. The Principal,
Government Ayurved College,
Raje Raghuji Nagar, Sakkardara Square,
Umrer Road, Nagpur.
3. The Registrar,
Maharashtra University of Health Sciences,
Mhasrul Road, Nashik.

.. RESPONDENTS

Ms P.D.Rane, Advocate, for petitioner.
Shri A.V.Palshikar, Assistant Government Pleader for respondent nos.1 & 2.
Shri V.P.Panpalia, Advocate for respondent no.3

**CORAM : SUNIL B. SHUKRE &
PUSHPA V. GANEDIWALA, JJ.**

DATED : 29.04.2019

JUDGMENT (Per Pushpa V. Ganediwala, J.)

1. **Rule.** Rule is made returnable forthwith and heard finally with the consent of the respective parties.

2. The legality and correctness of the order passed by the Scrutiny Committee, thereby invalidating the caste claim of the petitioner as belonging to “Mana” Scheduled Caste, is challenged in this petition.

3. The case of the petitioner is that his caste claim is invalidated by a common order. The learned counsel for the petitioner has relied upon the document namely Extract of P-9 of the year 1945-46 of his cousin great grandfather namely Laxman s/o Kanhu and Caste Validity Certificate dated 14.01.2019 issued in the name of his uncle - Bhaskar Dhanbaji Kalmeghe and submitted that though some document is pre-constitutional document, it ought to have been considered by respondent no.1-Scrutiny Committee while deciding the caste claim of the petitioner. Merely because the documents do not mention category “Schedule Tribe”, it could not have invalidated the caste claim of the petitioner. Therefore, the petitioner prays for quashing and setting aside the impugned order passed by the respondent no.1- Scrutiny Committee, Gadchiroli and seeks directions to respondent no.1 to issue caste validity certificate in the name of the petitioner as belonging to Mana-Scheduled Tribe.

4. However, the learned counsel appearing for the respondents supported the impugned order and prays for dismissal of the petition.

5. We have heard the learned counsel for the parties and perused the petitions and the documents annexed to it. There is no dispute about the genuineness of pre - independence document. The document- Caste Validity Certificate at Page 31 of the W.P.No.5274/2018 issued in the name of Bhaskar Dhonabaji Kalmenge, Caste Mana, Scheduled Tribe, on 14.01.2019, who is the uncle of the petitioner. So also one document at page 34 i.e. Extract of P-9, is of the year 1945-46 in the name of Laxman s/o Kanhu, who is cousin great grandfather of the petitioner. The reference of which is mentioned in column at Sr.No.22 page 74 respectively, in the impugned order of the Committee.

6. The aforesaid pre-independence documents undoubtedly has a greater probative value and, therefore, we do not find that there would any need to look for further corroboration. Besides this, the facts in this petition substantially similar with facts of the petition **Sandip s/o Bapurao Dadmal Vs. The Vice Chairman/Member Secretary of Scheduled Tribe Caste Scrutiny Committee and another (Writ Petition No2834/2018)** decided by this Court on 31st January 2018 whereby this Court allowed the petition by relying on the judgment of this Court in **Gajanan Pandurang Shende V.**

Head-Master, Govt. Ashram School & ors reported in 2018 (2)
Mh.L.J.460. Therefore, we are inclined to allow the petition.

7. In the result, writ petition is allowed. The impugned order dated 18.06.2018 is hereby quashed and set aside. Respondent no.1-Scrutiny Committee, Gadchiroli is directed to issue validity certificate in the name of petitioner as belonging to Mana, Scheduled Tribe, within four weeks from the date of receipt of this order. Rule is made absolute in the above terms. No orders as to costs.

JUDGE

JUDGE

Andurkar..