



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

WRIT PETITION No.1299 OF 2014

Ashish s/o. Anil Dhok,
Aged about 22 years,
Occupation : Service as a Police Constable,
R/o. Murmadi, Tah. Sindewahi,
District Chandrapur. : PETITIONER

...VERSUS...

1. Scheduled Tribe Certificates Scrutiny Committee,
Gadchiroli, Division Nagpur,
Through its Chairman, Office at Complex Area,
Near Zilla Parishad Sankul,
Gadchiroli, Tq. & Distt. Chandrapur.
2. State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai-32.
3. Reserved Police Inspector,
Police Headquarters, Gadchiroli,
Tah. and Distt. Gadchiroli.
4. Superintendent of Police,
Office of Superintendent of Police,
Gadchiroli, Tah. and Distt. Gadchiroli. : RESPONDENTS

Shri P.P. Dhok, Advocate for Petitioner.
Smt. S.S. Jachak, Asstt. Government Pleader for Respondent Nos.1,2 and 4.

CORAM : SUNIL B. SHUKRE AND
S.M. MODAK, JJ.

DATE : 15th JULY, 2019.

ORAL JUDGMENT : (Per : Sunil B. Shukre, J.)

1. Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent.

3. On going through the impugned order, we find that it suffers from manifestly fundamental error. While Scrutiny admits in paragraph 14 that there are in existence pre-constitutional documents of forefather of the petitioner which pertains to the period from 1920-23 to 2008, consistently showing the social status of the forefather as “Mana”, the Committee held that documents do not show that 'Mana' was a Scheduled Tribe at any point of time. The reason so adopted is against the well settled principle of law. Before the Constitution Order, 1950, there being not in existence the concept of "Scheduled Tribe", there was no question for the authority to create a document in a way as to mention by way of pre-fix or suffix to the word “Mana”, the word “Scheduled Tribe”. Therefore, only for this reason, these documents could not have been rejected. The settled principles of law suggest that these such documents having their origin before the Constitution was adopted have great probative value and if their genuineness is not in dispute, there should be ordinarily no occasion to resort to the affinity test, which comes to the support of the Scrutiny Committee as an effective tool of appreciation of evidence through the principle of

corroboration. But, in the present case, the genuineness of the pre-constitutional documents is not in dispute nor is in dispute the relationship between the petitioner and the forefather and, therefore, we find that the pre-constitutional documents themselves would be sufficient for establishing the tribe claim of the petitioner.

4. There is also one more document which supports the case of the petitioner. This document is a validity certificate granted to one Dilip Dhok, the cousin of the petitioner from the paternal side, an admitted fact, granted by Gadchiroli Scrutiny Committee. We find that this certificate having been issued by following the law laid down by the Hon'ble Apex Court, could not have been doubted for its genuineness.

5. In view of above, we find that the impugned order deserves to be quashed and set aside and it is quashed and set aside accordingly.

6. The respondent No.1 Committee is directed to issue tribe certificate to the petitioner within four weeks from the date of receipt of the order.

7. Rule is made absolute in the above terms. No costs.

Civil Application No.1838/2019.

Application is disposed of in terms of the final order.

JUDGE

JUDGE

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