



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.4439 OF 2018

Ku. Alan d/o. Bhaskar Wakade,
Aged about 21 years,
Occupation : Education,
Permanent R/o. at
Gevara (bu), Tah. Sawali,
Distt. Chandrapur, Presently at
Warora, Tah. Warora,
Distt. Chandrapur.

: PETITIONER

...VERSUS...

1. The State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
2. Joint Commissioner of Vice
President, Scheduled Tribe Caste
Certificate Scrutiny Committee,
Complex Area, Nr. Zilla Parishad Sankul,
Gadchiroli, Distt. Gadchiroli.
3. The Principal,
Science Collage Shri Shivaji Education Society,
Congress Nagar, Nagpur.
4. The Commissioner,
Tribal Development Department,
Giripeth, Amravati Road,
Nagpur-440 010.

: RESPONDENTS

Shri R.M. Wasnik, Advocate for Petitioner.

Smt. S.S. Jachak, Asstt. Government Pleader for Respondent Nos.1,2 and 4.

Ms. Aarti Singh with Shri P.D. Meghe, Advocate for Respondent No.3.

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. The petitioner claims to be belonging to “Mana” Scheduled Tribe, but her claim has been invalidated by the respondent No.2 Scrutiny Committee. The petitioner had relied upon the validity certificate granted by the Nagpur Committee to her father Bhaskar and sister Veena. But, these documents were dismissed by the Scrutiny Committee as having no evidentiary value on the ground that they were issued by Nagpur Scrutiny Committee without following proper procedure. The petitioner also relied upon P-1 revenue document showing one Linga s/o. Bodku as belonging to “Mana” caste. This document was of the year 1921-22 and Linga was the great grandfather of the petitioner. The genuineness of the document and relationship of the person named therein with the petitioner was never in dispute. But, the respondent No.2 Committee brushed his document aside on the ground that the document does not refer to any such word as “Tribe” and the petitioner must establish first that she is a tribal and, therefore, it was necessary for the petitioner to give evidence about her customs, traditions, practices etc. from which a conclusion could be drawn about his being a tribal. This was found necessary by the Committee because in

the past there were some instances when the Vigilance Officer found that there were 'Kunbi Mana' or some other caste 'Mana' which were not tribal but only person belonging to some Hindu caste and as such, the Committee found that the evidence regarding the petitioner being a tribal was essential.

4. As regards first set of document relating to validity certificate issued to the father and sister of the petitioner, we of the view that now the law is well settled. When the genuineness of the document is not in dispute, such pre-constitutional document must be accorded higher probative value and affinity test may not be insisted by way of any corroboration. If other Scrutiny Committee has not followed proper procedure in issuing the validity certificate, the fact remains that those validity certificates are still in existence and binding upon everybody which is bound in law to accept those documents and the benefits of reservation policy. So, if those validity certificates are issued, the consequence would be that in one family, consisting of several members, some members would be belonging to Mana Scheduled Tribe and the other members belonging to something else which is certainly not Mana Scheduled Tribe. Such consequence is not contemplated in law and, therefore, we are of the view that the validity certificate granted to the father and sister of the petitioner ought to have been accepted as sufficient proof of the tribe claim made by the petitioner. The Scrutiny Committee has committed an illegality in this regard.

5. As regards the pre-constitutional document, submitted by the petitioner in the present case we find that this document also should have been accepted by the Committee without insisting upon the evidence relating to tribal feature of the petitioner. The reason being that in this document, the social status shown of the great grandfather of the petitioner is only "Mana" simplicitor and as "Mana Kunbi" and so on and so forth. Had it been a case of the entry showing great grandfather of the petitioner as belonging to "Mana Kunbi" or some other caste the insistence as made by the Scrutiny Committee regarding submission of additional evidence would have been justified. But, that is not the case here and here also, according to us, the Scrutiny Committee has gone wrongful. Thus, we find that there is a great substance in this petition.

6. The petition is allowed.

7. The impugned order is hereby quashed and set aside.

8. The Scrutiny Committee is directed to issue validity certificate to the petitioner as he belonging to "Mana" Scheduled Tribe within a period of four weeks from the date of order.

9. Rule is made absolute in these terms. No costs.

JUDGE

JUDGE

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