



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

WRIT PETITION No.4438 OF 2018

Shri Aman s/o. Bhaskar Wakade,
Aged about 26 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,
Yashwantrao Chavhan College of
Engineering, Hingna Road, Wanadongri,
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 his claim has been invalidated by the respondent No.2 Scrutiny Committee. The petitioner had relied upon the validity certificates granted by the Nagpur Committee to his 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 aside this document on the ground that the document does not refer to any such word as “Tribe” and the petitioner must establish first that he is a tribal and, therefore, it was necessary for

the petitioner to give evidence about his 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 Manas' or some other caste 'Manas' which were not tribals but only persons 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 are of the view that now the law is well settled. If the 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 who is bound in law to accept those documents and the reservation policy giving various benefits. So, if those validity certificates are rejected as devoid of any proof, 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 a consequence is not contemplated in law and, therefore, we are of the view that the validity certificates 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 features of the petitioner. The reason being that in this document, the social status shown of the great grandfather of the petitioner is of only "Mana" simplicitor and not as "Mana Scheduled Tribe". This reasoning is fallacious. The entry shown is not of any caste "Mana" such as "Kunbi Mana". 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. The entry is of only "Mana" and when it is so, it is reasonably indicative of the status of Tribe as in such a case a doubt about the person's status would not arise, and so there would be no doubt and no need for removal of doubt by adducing additional evidence. Here also, according to us, the Scrutiny Committee has gone wrong. 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.

Civil Application No.1851/2019.

As the petition has been allowed, this application is allowed in terms of prayer clause (I).

Application is disposed of.

JUDGE

JUDGE

वाडोदे