



J-wp3916.18.odt

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.3916 OF 2018

Shri Bhojraj s/o. Ramesh Dandekar,
Aged about 26 years,
Occupation : Service,
R/o. At Post Jamsala (New),
Tq. Shindewahi, District Chandrapur. : PETITIONER

...VERSUS...

1. The Schedule Tribe Caste Certificate
Scrutiny Committee,
Through its Member Secretary and
Deputy Director, Gadchiroli.
2. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
3. Chief Conservator or Area Director,
Tadoba Andheri Tiger Project,
Chandrapur.
4. Deputy Director (Buffer),
Tadoba Adheri Tiger Project,
Chandrapur.
5. Deputy Director (Core),
Tadoba Adheri Tiger Project,
Chandrapur.
6. Range Forest Officer,
Pangali, Tahsil : Sindewahi,
Distt. Chandrapur. : RESPONDENTS

Shri Ashwin Deshpande, Advocate for Petitioner.
Smt. Kalyani Deshpande, Asstt. Government Pleader for Respondents.

**Coram : Sunil B. Shukre And
Milind N. Jadhav, JJ.**

Date : 16th September , 2019.

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

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

2. In this case, we find there are pre-constitutional documents standing in the name of Namdev Shrawan, grand-father and one Soma s/o. Visu great-grand-father of the petitioner. These documents are of the year 1921-22. These documents show Namdev Shrawan and Soma s/o Visu as the persons belonging to "Mana" caste.

3. The impugned order shows that these two documents have been considered by the respondent No.1-Committee, but in its opinion no reliance could be placed upon these documents for the reason that the entry "Mana" recorded in these documents could not be said to be as surely indicative of the social status of those persons as that of tribal. According to us, the reason so stated for rejecting these documents is fallacious.

4. The conclusion drawn by the Scrutiny Committee is possible only when the word "Mana" is synonymous with other caste in the Indian caste system. The impugned order does not state anywhere that "Mana" is also one of the castes forming Indian caste system. "Mana" has not

been considered to be a caste but a status which is representative of a tribal group. There is no material shown to us by the learned A.G.P. that "Mana" could also be considered as a word which is synonymous with some Hindu caste. If any such caste as "Mana" forms part of the caste system prevailing in India, there could be a confusion as to which of the two social status, one that of caste and other that of tribal is attributable to the claimant. But, when no such caste really exists within the caste system, there should be no occasion to entertain any such doubt. The impugned order, as stated earlier, nowhere says that the caste system in India also has such caste within it as 'Mana' or 'Mani'. In fact, these are the names of tribal groups and before the presidential order declaring certain castes and tribal groups as entitled for benefits of the reservation was issued which was after the adopting of the Constitution, there was no reason for the persons claiming a certain social status or claiming to be tribal to also ensure that the entries recorded in the Government documents and which disclosed their social status also clarified their social status as that of scheduled tribe. So, the entry cannot be viewed with suspension only because the words "scheduled tribe" are not mentioned in the documents.

5. The discussion made so far would lead us to conclude that the entries recorded in the pre-constitutional documents denoting the status of the forefathers of the petitioner as of "Mana" are referable to

only tribal group called "Mana" and not to any other caste or group. In such a case, the documentary evidence will have grater probative value and there would be no need for applying the affinity test, as held in the case of Anand vs. Committee for Scrutiny and Verification of Tribe Claims and others, reported in 2011(6) Mh.L.J. 919.

6. In this view of the matter, we find the impugned order as illegal and, therefore, it deserves to be quashed and set aside.

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

8. The respondent No.1-Committee is directed to issue validity certificate to the petitioner as he belonging to "Mana" scheduled tribe within a period of eight weeks from the date of receipt of this order.

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

JUDGE

JUDGE

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