



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

WRIT PETITION NO. 6908/2018

Prashik S/o Ramesh Bharde,
Aged about 22 years, Occ. Student,
R/o. Qtr No. B-26, Police Line Quarter,
Tukum, Chandrapur.

.... **PETITIONER**

// VERSUS //

1. The Vice-Chairman/Member-Secretary,
Scheduled Tribe Caste Scrutiny Committee,
Gadchiroli.
2. The Principal,
Government College of Engineering,
Aurangabad.
3. The Vice-Chancellor/Registrar,
Dr. Babasaheb Ambedkar
Marathwada, University,
Aurangabad.

.... **RESPONDENTS**

Ms. P. D. Rane, Advocate for petitioner.
Ms. T. H. Khan, Assistant Government Pleader for respondent Nos. 1 & 2.
Shri J. B. Kasat, Advocate for respondent No. 3.

CORAM : A.S.CHANDURKAR AND VINAY JOSHI, JJ.

DATE OF JUDGMENT:- 05.02.2020

JUDGMENT (PER A.S.CHANDURKAR, J.)

Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

2. The challenge raised is to the order passed by the Caste Scrutiny Committee dated 29.06.2018, thereby invalidating the claim of the petitioner of belonging to “Mana” Scheduled Tribe.

3. Before the Scrutiny Committee, the petitioner relied upon various documents, the oldest thereof being a School Leaving Certificate that was issued on 20.07.1953 in which it was stated that the grandfather of the petitioner was admitted in School on that date and his date of birth 17.03.1944. The caste was shown as “Mana”. This document along with various other documents were subjected to verification by the Vigilance Cell and they were found to be existing in the original records. In the impugned order, the Scrutiny Committee has held that the entry “Mana” found place in the Scheduled Tribes Order of 1950 and therefore the School Leaving Certificate issued thereafter in 1953 could not be taken into consideration. It was also held that the petitioner could not show any affinity with “Mana” Scheduled Tribe.

4. Ms. P. D. Rane, learned Advocate for petitioner submitted that the entry “Mana” was included in the Scheduled Tribes Order in the year 1956 and therefore the extract of the School Register prepared prior to that date had great probative value. Relying upon the decision in case of ***Gajanan s/o Pandurang Shende Vs. Head-master, Govt. Ashram School, Dongargaon Salod and others, 2018(2) Mh.L.J. 460***, it was submitted that this Court had held therein that “Mana” Scheduled Tribe was included in the Scheduled Tribes Order in the year 1956. It was submitted that there were no documents found by the Scrutiny Committee showing any other entry than “Mana”. The Revenue Records pertaining to the cousin-grandfather were also referred to indicate existence of the entry “Mana” in the year 1958-59. Referring to the provisions of Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003, it was submitted that the documents relied upon by the petitioner could not be ignored and the Scrutiny Committee misdirected itself in invalidating the caste claim.

5. Ms. T. H. Khan, learned Assistant Government Pleader for respondent Nos. 1 and 2 supported the impugned order and submitted that since the documents relied upon by the petitioner related to the period subsequent to the the Scheduled Tribes Order 1950, those documents did not have any probative value. Hence the affinity test

was relevant and as the petitioner did not indicate any affinity with “Mana” Scheduled Tribe, the caste claim was rightly invalidated.

6. On hearing the learned counsel for the parties and after perusing the documents on record, we find that the School Leaving Certificate indicates that petitioner’s grandfather had left School on 20.07.1953 and in that document his caste was shown as “Mana”. This document has great probative value in view of the fact that entry “Mana” has been included in the Scheduled Tribes Order for the first time in the year 1956. This aspect is clear from the finding recorded in para 5 of the decision in case of *Gajanan s/o Pandurang Shende* (supra). It can be seen that documents prior to 1956 have been relied upon by the petitioner and they show the entry in the relevant column as “Mana” Scheduled Tribe. It is found that the petitioner is in possession of such documents which relate to the period prior to “Mana” being included in the Scheduled Tribes Order, 1956. The affinity test thus could not be the sole ground to hold that the petitioner did not belong to “Mana” Scheduled Tribe. It is also pertinent to note that there is no contrary entry indicating that the petitioner belongs to the some other tribe than “Mana” Scheduled Tribe. The Scrutiny Committee erred in recording the finding that the entry “Mana” was taken in the Scheduled Tribes Order in the year 1950. That entry has been taken in the year 1956. We therefore find that the Scrutiny Committee was

not justified in invalidating the petitioner's claim of belonging to "Mana" Scheduled Tribe.

7. Accordingly, the order dated 29.06.2018 passed by the Scrutiny Committee is set aside. It is declared that the petitioner belongs to "Mana" Scheduled Tribe. The Scrutiny Committee shall within a period of four weeks from today issue a validity certificate to the petitioner. In the light of the present adjudication, the respondent No. 2 – College shall return all the original documents of the petitioner and give effect to the present adjudication. Rule is made absolute accordingly. No costs.

JUDGE

JUDGE

Gohane.