



WP-557-14

1/4

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

WRIT PETITION NO.557 OF 2014

Mukesh s/o Giridhar Nannaware
Aged about 20 years Occ. Student,
R/o Post Vairagad, Tah. Armori,
Dist. Gadchiroli

... Petitioner

-vs-

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli,
Thr. Jt. Commissioner-Vice Chairman

2. The Principal,
Govindrao Munghate Arts
and Science College, Kurkheda,
Dist. Gadchiroli

3. The Vice-Chancellor,
Gondwana University,
Gadchiroli

... Respondents

Ms Preeti Rane, Advocate for petitioner.
Ms Tajwar Khan, Assistant Government Pleader for respondent No.1.
Shri R. M. Ahirrao, Advocate for respondent No.2.

CORAM : A. S. CHANDURKAR AND VINAY JOSHI, JJ.
DATE : FEBRUARY 14, 2020

Oral Judgment : (Per : Vinay Joshi, J.)

The challenge in this writ petition is to the rejection of the petitioner's caste-claim of 'Mana' Scheduled Tribe vide impugned order dated 21/12/2013 passed by the respondent No.1-The Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli.

The petitioner, a student claims to be belonging to 'Mana'

Scheduled Tribe which is enlisted at Serial No.18 of the Scheduled Tribes Order 1950. The petitioner's caste-claim was forwarded through the College to respondent No.1-Scrutiny Committee for verification and issuance of validity certificate. The petitioner has submitted several pre Constitutional documents of his parental relations to substantiate his claim of 'Mana' Scheduled Tribe. The Vigilance Cell has investigated the matter and submitted its report to the Scrutiny Committee. On examination of material the Scrutiny Committee has rejected the petitioner's caste-claim on the premise that the petitioner failed to establish that he belonged to 'Mana' Scheduled Tribe by adducing documentary evidence and also rejected his caste-claim on failure of affinity test.

2. Heard both the counsel and perused the entire proceeding. The petitioner has produced certain documents to substantiate his claim. Particularly petitioner is relying on pre Constitutional P-1 extract of the year 1921 relating to his great grandfather namely Tima Dasru whose caste is shown as 'Mana'. Likewise the petitioner placed reliance on the P-9 extract of his cousin great grandfather namely Bandu of the year 1931. The genealogical tree bears reference of Tima Dasru and Bandu as great grandfather and cousin great grandfather of the petitioner respectively of 'Mana' Scheduled Tribe.

3. We have perused the Vigilance Cell report which is an important fact findings step of enquiry. In said report the Vigilance Cell also endorsed that there are pre Constitutional entries of 1922 and 1932 meaning thereby genuineness of these documents has not been doubted by Vigilance Cell. Inasmuch as the impugned order also reflects that Vigilance Cell has procured these documents which is an admitted fact.

4. The Scrutiny Committee has sidelined these documents by stating that there is no reference as 'Mana Scheduled Tribe'. However this issue is well covered by the decision of this Court in case of ***Gajanan s/o Pandurang Shende vs. Head-Master, Govt. Ashram School*** reported in ***2018(2) Mh.L.J. 460***. In said case it is ruled that entry 'Mana' at serial No.18 in Constitution (Scheduled Tribes) Order must be read as it is and no evidence can be led to exclude certain communities of 'Mana' from granting protection or benefits. Therefore it is not possible to draw any different interpretation of the entry 'Mana'. As regards affinity test is concerned the Honourable Apex Court in case of ***Anand vs. Committee for Scrutiny and Verification of Tribe Claims and ors.*** reported in ***2011(6) Mh.L.J. (S.C.) 919*** has ruled that the affinity test shall be used for the purposes of corroboration but it cannot be considered as a litmus test.

5. In view of above, the reasons accorded by the Scrutiny Committee for rejecting the caste-claim of the petitioner are not justifiable. Pre Constitutional documents carry much weight and strongly support the petitioner's case of belonging to 'Mana' Scheduled Tribe. In view of above we set aside the impugned order and hold that petitioner belongs to 'Mana' Scheduled Tribe. By allowing this writ petition we direct the respondent-Scrutiny Committee to issue caste validity certificate of 'Mana' Scheduled Tribe to the petitioner within four weeks from today. The respondent No.2-College is directed to return petitioner's original documents on furnishing validity certificate.

Rule is made absolute in aforesaid terms. Writ petition is disposed of with no order as to costs.

Civil Application No.3296/2019 also stands disposed of accordingly.

JUDGE

JUDGE