



Judgment

WP2519.14

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

WRIT PETITION No. 2519/2014.

Bharat s/o Damodhar Shrirame,
Aged about 43 years, Occupation
Service as an Assistant Teacher,
R/o. Arjuni, Tahsil Warora,
District Chandrapur.

...

PETITIONER.

VERSUS

1. Scheduled Tribe Certificates
Scrutiny Committee, Gadchiroli
Division Nagpur, through its
Chairman, Office of Complex
Area, Near Zilla Parishad Sankul,
Gadchiroli, Tq. and District
Gadchiroli.
2. State of Maharashtra,
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
3. Shri Gurudeo Vidyalaya, Sagara
through its Head Master, Tah.
Bhadrawati, District Chandrapur.
4. Shri Gurudeo Bahuuddeshiya
Shikshan Sanstha, Sagara through
its Secretary, Office at Sagara,
Tahsil Bhadrawati, District

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Chandrapur.

5. Sub-Divisional Officer, Warora
Office at Tahsil Office, Warora,
Tahsil Warora, District Chandrapur.
6. The Collector, Chandrapur,
Collectorate Building, Chandrapur,
Tq. and District Chandrapur.
7. The Education Officer (Secondary),
Zilla Parishad, Chandrapur
Tahsil and District Chandrapur.

... **RESPONDENTS.**

Mr. P.P. Dhok, Advocate for the Petitioner.
Ms. S.Haidar, A.G.P. for Respondent Nos. 1,2,5,6 and 7.
Ms.K. Satpute, Advocate for Respondent No.4.

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

DATE : FEBRUARY 26, 2020.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard learned Counsel appearing for the respective parties.

2. The caste claim of petitioner for 'Mana' Scheduled Tribe

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came to be rejected by respondent no.1 Scheduled Tribe Certificate Scrutiny Committee, vide order dated 07.03.2014, which is the subject matter of challenge in this Writ Petition.

3. The petitioner is claiming to be belonging to 'Mana' Scheduled Tribe, which is an entry at Sr.No.18 in the Constitution (Scheduled Tribe) Order, 1950. Petitioner's caste claim was forwarded to the Caste Scrutiny Committee through his employer for verification and issuance of Validity Certificate. The petitioner has produced certain documents in support of his caste claim. Vigilance enquiry was conducted, in which certain documents are also procured by the Vigilance Cell. Notably, Vigilance Cell has procured extract of School Register of petitioner's father Damodhar dated 01.04.1939, showing entry of Mana Caste. Likewise, Vigilance has also procured extract of school admission register dated 16.06.1939 of petitioner's uncle Shrawan, showing entry of Mana caste. Since these two documents are procured by the Vigilance Cell, there is no question of suspecting the genuineness of these documents.

4. Besides that petitioner has produced a validity certificate of one Ajay. Pertinent to note that two cousin sisters of petitioner

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namely Shobha and Mangla, had earlier approached this Court challenging the rejection of caste claim on the same set of documents. This Court on the basis of said documents, vide common order dated 18.02.2020 in Writ Petition Nos. 2477 and 2478 of 2014, held that they have duly established their caste claim as belonging to Mana Caste, and directed to issue validity certificate. In true sense the issue involved in this petition is covered by said decision, since this Court has granted validity to petitioners therein considering the very same documents.

5. Petitioner's caste claim is well supported by pre-constitutional documents which are verified by the Vigilance Cell. These documents bears entry of Mana caste. The caste claim though rejected on the ground of failure in affinity test, we may advert to the decision of Hon'ble Supreme Court in case of **Anand .vrs. Committee for Scrutiny and Verification of Tribe Claims 2011 (6) Mh.L.J. (SC) 919**. In said case it has been ruled that the affinity test shall be used for the purpose of corroboration and shall not be used as a litmus test. Besides that, as there are previous validities in the

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family. In view of the decision of this Court in case of **Apporva Vinay Nichale .vrs. Divisional Caste Certificate Scrutiny Committee 2016 (6) Mh.L.J. 401**, it was mandatory on the Scrutiny Committee to issue validity on the basis of the previous validities in the family. Moreover, caste claim of petitioners' cousin sisters was tested and held to be proved by this Court.

6. In view of above, we hold that the petitioner has duly established that he belongs to Mana Scheduled Tribe. Accordingly, we set aside the impugned order and by allowing this Writ Petition, direct the respondent Scrutiny Committee to issue validity certificate in the name of petitioner as belonging to Mana Scheduled Tribe, within a period of 8 weeks from the date of this order.

7. Rule is made absolute in aforesaid terms with no order as to costs.

JUDGE

JUDGE

Rqd.