



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

WRIT PETITION NO. 6710 OF 2018

1. Ms. Mrunali d/o Madhukar Dhok,
aged about 24 years, Occ. Student.
2. Ms. Vrushali d/o Madhukar Dhok,
Aged about 21 years, Occ. Student,
Both R/o 101, Sai Ganesh Sankul,
Kalyan (East), Distt. Thane.

.... **PETITIONERS**

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1. The State of Maharashtra, through
its Secretary, Department of Tribal
Development, Mantralaya, Mumbai
– 400032.
2. The Commissioner, Tribal Research
and Training Institution, 28, Queens
Garden, Pune-411 001.
3. Deputy Director and Member
Secretary, Scheduled Tribe Caste
Certificate Scrutiny Committee,
Gadchiroli, Distt. Gadchiroli.
4. The Principal, College of Social
Work, 28, Nirman Niketan, 38,
Navin Marin Line, Church Gate
(East), Mumbai 400 020
5. The Principal, Smt. Chandivai
Himmatlal Mansukhani College,
Ulhasnagar-3, Distt. Thane – 421
003
6. The Registrar, Bombay University,
Kalina-Kurla-400 098, Mumbai.
7. Sub Divisional Officer, Bramhapuri,
Tq. Bramhapuri, Distt. Chandrapur.

.... **RESPONDENTS**

Shri Ananta Ramteke, Advocate for petitioners.

Shri J.Y. Ghurde, Assistant Government Pleader for respondent nos. 1 to 3 and 7.

Shri Ninad P. Ghugare, Advocate holding for Shri P.B. Patil, Advocate for respondent no.4.

CORAM : A.S. CHANDURKAR AND VINAY JOSHI, JJ.
DATED : 24/02/2020

ORAL JUDGMENT : (PER : VINAY JOSHI, J.)

RULE. Rule made returnable forthwith and heard finally by consent of both the learned Counsel appearing for the parties.

2] Both the petitioners being aggrieved by rejection of caste claim vide order dated 08.08.2018 have approached this Court by invoking writ jurisdiction under Article 226 and 227 of the Constitution. The petitioners are real sisters who are claiming to be belonging of 'Mana' Scheduled Tribe which is an entry at serial no. 18 to the Constitutional (Scheduled Tribes) Order 1950. The petitioners' caste claim were invalidated on the ground of failure in adducing sufficient documents, area restriction and failure in affinity test. Though the petitioners have tendered previous validities, however, they were not considered by the Committee.

3] The petitioner have produced in all 20 documents in support of

their caste claim. Particularly, they have produced some pre-constitutional documents of which genuineness has not challenged during vigilance enquiry. They have produced P-9 extract of the year 1924-25 of their grant father Soma showing entry of 'Mana' caste. Besides that petitioners have produced validity certificates of their father namely Madhukar Soma Dhok . The Committee has not considered said vital documents on the ground that it was issued without vigilance enquiry. To counter the said claim, the petitioners have produced vigilance enquiry report dated 15.07.2004 conducted by the Vigilance Cell during verification of caste claim of Madhukar. Therefore, the observations of the Committee to that extent are patently erroneous and against the record.

4] In short, the petitioners have produced pre-constitutional documents of the year 1924 showing entry of 'Mana' caste which is not disputed during enquiry. Moreover, there is previous validity in the family that too of petitioner's father. This Court in case of **Apoorva Vinay Nichale .vrs. Divisional Caste Certificate Scrutiny Committee No.1 and others 2010 (6) Mh.L.J. 401**, has expressly ruled that if, there are previous validities of the blood relatives in the family then the Committee is bound to issue validity certificate. The said ratio would forcefully apply in this case as previous validity was of petitioners' own father. The point regarding arera restriction is covered by the decision of the Apex Court in the case of **Jaywant Dilip Pawar vrs. State of Maharashtra and ors, 2018 (5) ALL M R**

975 (S.C.). The Apex Court has held that after the amendment to the second schedule by Second Schedule Act No. 108 of 1976, the area restrictions are removed. On the point of affinity test we may advert towards the decision of the Hon'ble Supreme Court in case of *Anand vrs. Committee for Scrutiny and Verification of Tribe Claims and others*, 2011 (6) Mh.L.J. 919 wherein it is held that the affinity test can be used only as a corroborative piece of evidence but, cannot be considered as litmus test.

5] In view of the above we hold that the petitioners have duly established their caste claims of 'Mana' caste. The impugned order is unsustainable in the eyes of law. We allowed the Writ Petition and by setting aside the impugned order direct the respondent no. 3-Caste Scrutiny Committee to issue validity certificates to both the petitioners within eight weeks from the date of this order.

6] Rule is made absolute in aforesaid terms. No order as to costs.

(VINAY JOSHI, J.)

(A.S. CHANDURKAR, J.)

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