



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

WRIT PETITION No.6746 OF 2018

1. Kartik s/o. Rameshwar Mangare,  
Aged about 20 years,  
Occupation : Student,  
R/o. Sunder Nagar, Niljai,  
Post – Punwat, Distt. Yavatmal.
2. Grishma d/o. Jageshwar Mangare,  
Aged about 18 years,  
Occupation : Student,  
R/o. Ekta Nagar Colony,  
Bhadrawati, Distt. Chandrapur. : PETITIONERS

...VERSUS...

The Vice-Chairman/Member Secretary,  
Scheduled Tribe Caste Scrutiny Committee,  
Gadchiroli. : RESPONDENT

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Ms. P.D. Rane, Advocate for the Petitioners.  
Shri D.P. Thakare, Addl. Government Pleader for the Respondent.  
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CORAM : SUNIL B. SHUKRE AND  
S.M. MODAK, JJ.

DATE : 5<sup>th</sup> FEBRUARY, 2019.

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

1. Heard learned counsel for the parties. Rule. Heard forthwith by consent of parties.
2. Petitioners have challenged the order of respondent



Committee rejecting his caste claim of he belonging to “Mana Scheduled Tribe” on the ground that it is arbitrary and perverse. The Scrutiny Committee has rejected the caste claim of the petitioners when the caste certificates to their paternal uncles, cousin brothers etc. were issued, no police vigilance report was obtained prior to issuance of those certificates.

3. Learned counsel for the petitioners submits that in addition to above documents the petitioners have furnished school leaving certificates, sale-deed and jamabandi in respect of her cousin grandfather and grate grandfather respectively. These documents being pre-constitutional could not have be rejected by respondent Committee. As regards the finding of the Scrutiny Committee that the petitioners have failed to prove the affinity test, Ms. P.D. Rane has relied upon the decision of this Court in **Gajanan Pandurang Shende vs. Head-Master Govt. Ashram School, Dongargaon Salod and others**, reported in **2018(2) Mh.L.J 460** and the decision of Hon'ble Apex Court in **Anand vs. Committee for Scrutiny and Verification of Tribe Claims and others**, reported in **2011(6) Mh.L.J (S.C.) 919**.

4. We have perused the impugned order and the case law pressed into service before us. Hon'ble Apex Court in Anand (supra) has in clear terms held that while dealing with the documentary evidence, greater reliance may be placed on Pre-Independence Document because they furnish a higher degree of probative value to the declaration of



status of a caste as compared to Post-Independence Document. As regards the affinity test the Hon'ble Apex Court has in clear terms held that a cautious approach has to be adopted, and with the migrations, modernization and contacts with other communities, the tribal communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. It has been held that affinity test may not be regarded as litmus test for establishing the link of the applicant with a scheduled tribe. Thus, it is clear that affinity test is to be used to corroborate the documentary evidence and it is not to be used as the sole criteria to reject a caste claim.

5. In view of the legal position narrated above, this writ petition will have to be allowed. It is accordingly allowed.

6. The impugned order is hereby quashed and set aside and it is directed that the Respondent Committee shall issue validity certificate to the petitioners as belong to the Mana Scheduled Tribe within 15 days from the date of receipt of this order.

7. Rule is made absolute in the above terms. No costs.

**JUDGE**

**JUDGE**

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