



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

WRIT PETITION NO.1666/2014

Pravin s/o Dashrath Manguladhe,
aged 31 years, Occ. Service,
r/o Shegaon (Khurd), Tq. Bhadrawati,
Dist. Chandrapur.

.....PETITIONER

...V E R S U S...

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli,
through its Chairman.
2. The Divisional Controller,
Maharashtra State Road Transport
Corporation, Nagpur Division,
Nagpur.
3. The Divisional Controller,
Maharashtra State Road Transport
Corporation, Chandrapur.
4. The Managing Director,
M.S.R.T.C. Maharashtra Transport
Bhavan, Dr. Anandrao Nair Marg,
Central Office, Mumbai-400 001.

...RESPONDENTS

Ms Preeti Rane, Advocate for petitioner.

Mr. A. V. Palshikar, A.G.P. for respondent no.1.

CORAM:- SUNIL B. SHUKRE &
PUSHPA V. GANEDIWALA, JJ.
DATED :- MARCH 20, 2019

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

1. Heard. Rule. Rule is made returnable forthwith. Heard
finally by consent of the parties.

2. The contention of learned counsel for the petitioner is that the impugned order passed by respondent no.1-Committee, rejecting caste claim of the petitioner as he belonging to “Mana” Scheduled Tribe, is perverse, arbitrary and against the settled principles of law. She further submits that the documentary evidence comprising per-Constitutional documents has been rejected on the ground that the documents do not make mention about the words “Scheduled Tribe” which is against the settled principles of law as laid down in the case of Gajanan Pandurang Shende Vs. Head-Master, Govt. Ashram School & Ors. Reported in 2018 (2) Mh. L. J., 460.

3. Learned Assistant Government Pleader for respondent no.1 agrees with the rejection of the documentary evidence on the ground of absence of the words “Scheduled Tribe” as agitating against the principle of law, laid down in the case of Anand Vs. Committee for Scrutiny and Verification of Tribe Claims & Ors; reported in 2011 (6) Mh.L.J. (SC) 919. However, he submits that as regards the other factor of the petitioner clearing affinity test, the issue would have to be examined on the basis of the facts of

this case. He submits that an appropriate order be passed in this case.

4. In the present case, there is one pre-Constitutional document relating back to the year 1918-19. This document, an extract of P-I revenue record, discloses that Bucha s/o Janu Mana had cultivated the crops as Jowa, Mung, etc. on his field. This Bucha s/o Janu Mana is great-great grandfather of the petitioner. There is no dispute about either genuineness of this pre-Independence document or the relationship between the petitioner and the said person. The only dispute is about absence of the words "Scheduled Tribe" in the document. However, the law is clear and the clarity of law has not been doubted by the respondents. Therefore, relying upon Gajanan and Anand (supra), we find that this document ought not to have been rejected by the Scrutiny Committee and on this aspect of the matter, the impugned order is illegal.

5. The pre-Independence document referred to above undoubtedly has a greater probative value and it is the law that ordinarily more reliance ought to be placed upon it as compared to

affinity test as held by the Hon'ble Apex Court in Anand (supra) and it needs no corroboration. In the present case, there is no doubt about the pre-Independence document being available on record and, therefore, we do not find that there would be any need to look for further corroboration. Even otherwise, as held in Anand (supra), the affinity test may not be regarded as a litmus test for establishing link of the applicant with a Scheduled Tribe. It is held, nevertheless, the claim by an applicant that he is a part of Scheduled Tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded on the ground that his present traits do not match his tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies etc. and the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim. In respect of the affinity test, Hon'ble Apex Court has held that a cautious approach has to be adopted and with the migrations, modernization and contacts with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe.

6. A perusal of the impugned order, however, disappoints us. It nowhere makes any mention about the customs, traditions, etc. prevailing generally in Mana Scheduled Tribe and the order straightway comes to a conclusion that the disclosure made by the relatives of the petitioner as regards customs, traits etc. do not match with the established customs etc. Such an order would have to be said as perverse and arbitrary. In fact, as stated earlier, there was no necessity to look for any corroboration. In view of this, we find that the impugned order is illegal, arbitrary and, therefore, cannot sustain scrutiny of law.

7. Writ Petition is allowed. Impugned order is hereby quashed and set aside. Respondent no.1-Committee is directed to issue Validity Certificate in the name of the petitioner within four weeks from the date of receipt of this order.

Rule is made absolute in the above terms. No order as to costs.

JUDGE

JUDGE

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