



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4654 OF 2019

Ruchita D/o Harish Gaikwad,
Aged about 18 years, Occ. Student,
R/o Plot No.10, Manish Nagar,
Somalwada, Near Railway Crossing,
Nagpur

..... PETITIONER

// **VERSUS** //

1. The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli.
2. The Principal,
Santaji Mahavidyalaya, Sneha Nagar,
Chhatrapati Chowk, Nagpur 440 015
3. The Vice Chancellor / Registrar,
Rashtrasant Tukadoji Maharaj
Nagpur University, Nagpur

...RESPONDENTS

Ms. Preeti Rane, Advocate for petitioner.
Shri Neeraj Patil, AGP for the respondent no. 1.
Shri B.G.Kulkarni, Advocate for the respondent no.2.

CORAM : SUNIL B. SHUKRE AND
ANIL S.KILOR, JJ.

DATED : 22nd September, 2021.

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

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of the parties.

2. In this case reply has not been filed by the Respondent No.1-Scrutiny Committee. Time is sought by learned Assistant Government Pleader for filing of the reply. However, having considered the impugned order and also the law governing the field, we do not think that any reply of respondent no.1 Committee is required in the matter and, especially when detailed reasons are already recorded by the Committee in its impugned order.

3. Now, we would proceed to consider the validity of the reasons recorded in the impugned order in the light of the law governing the field. The petitioner is claiming social status of Mana Scheduled Tribe. The petitioner has placed heavy reliance upon the document dated 1st July, 1941 showing her grand father as belonging to Mana community and according to the learned counsel for the petitioner this document being a pre-constitutional document has immense evidentiary value, which has not been properly appreciated by the Scrutiny Committee. The petitioner has also placed upon reliance upon the validity certificate granted by the Scrutiny Committee at Nagpur to Jaishree Laxman Gaikwad, who is admittedly paternal aunt of the petitioner, which validity, however, has been rejected by the Scrutiny Committee on the

ground that it was issued without conduct of any vigilance inquiry.

4. The reasons stated by the Scrutiny Committee for rejecting two important documents, in our opinion, do not stand the scrutiny of law. In the opinion of the Scrutiny Committee, the document dated 1st July, 1941 could not be considered to be a conclusive proof of the social status claimed by the petitioner because it does not make it clear if the person in whose name entry has been taken in that document belongs to Mana Scheduled Tribe or Mana Open Community. But, in doing so, the Scrutiny Committee has not found that there are persons who are Manas and who come from some forward caste or community. The relevance of the question regarding disclosure of status to be that of Scheduled Tribe by a document would arise only when the Caste or the Tribe or the Community shown in the document is capable of being understood as a forward caste or open community or backward caste or tribe simultaneously. When, there is nothing available on record showing, and the Scrutiny Committee has also not recorded any finding, that the word 'Mana' is attributable not only to Tribals but also to the persons belonging to forward caste or community, the reason

stated by the Scrutiny Committee to reject the document dated 1st July, 1941 appears to be not consistent with the law operating in the field. Therefore, we do not think that only for this reason, the document dated 1st July, 1941 could have been rejected by the Scrutiny Committee and once it is seen that there is no open or forward community known as Mana and the word 'Mana' is only referable to a tribal community, we also have to accept the fact that after declaration of this Mana as a Scheduled Tribe, the document in question proves the claim of the petitioner that she belongs to Mana Scheduled Tribe, in a reasonable way.

5. About the reason given by the Scrutiny Committee for ignoring the validity certificate issued to Jayshree Laxman Gaikwad, paternal aunt of the petitioner, we must state that the ground taken is not consistent with the view taken by different Benches by this Court in a series of its judgments. In the case of *Gitesh S/o Narendra Ghormare Vs. Scheduled Tribe Certificate Scrutiny Committee, Nagpur and others* reported in *2018(4) Mah. Law Journal 933* and also in the case of *Apoorva D/o Vinay Nichale Vrs. Divisional Caste Certificate Scrutiny Committee No.1 and others* reported in *2010 (6) Mah. Law Journal, 401* it has been held by this

Court that if the Scrutiny Committee is of the opinion that validity certificate could not be accepted as sufficient or conclusive proof of the social status claimed by the petitioner, because the validity certificate has been issued without conduct of any vigilance inquiry, the Scrutiny Committee must also satisfy itself about the fact that the Committee which issued the validity certificate had not recorded any finding that in its opinion, making of further inquiry through vigilance cell was not necessary and in its opinion, the documentary proof submitted by the claimant itself was sufficient to convince the Committee about the social status claimed by the petitioner. It is further held that unless this is done, the Scrutiny Committee must not arrive at different conclusion as after all such matters have a great impact on the candidate as well as on the future generations in many ways varying from marriage to education and enjoyment of life and therefore, where a committee gives a finding about validity of the caste of candidate, another committee ought not to refuse the same status to a blood relative who applies. It has also been held that merely because different view on the same facts is possible that by itself would not entitle the Committee dealing with the subsequent caste claim to reject it. But it has

also been observed that if a Committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and it would be entitled to refuse the caste claim and in addition, it may initiate proceedings for cancellation of the order, but ofcourse, notice for doing so would have to be issued to the beneficiary in whose favour the validity exists. This view has been reiterated by this Court in its judgment rendered in the case of *Ku. Nayan D/o Bhaskar Chouke Vrs. The Scheduled Tribes Caste Scrutiny Committee, Nagpur and another* in Writ Petition No. 491 of 2019, decided on 16th July, 2021.

6. In the present case, we find that none of the aforestated factors has weighed with the Scrutiny Committee in rejecting the validity existing in the paternal family of the petitioner nor any notice has been issued to the beneficiary, Jayshree Laxman Gaikwad, before discarding her validity certificate. Therefore, in our considered view, the facts of the present case are squarely covered by the view taken by this Court in the case of *Ku. Nayan D/o Bhaskar Chouke and another Vrs. The Scheduled Tribes Caste Scrutiny Committee, Nagpur and another* rendered in *Writ Petition No. 491 of*

2019 and the above referred writ petition and as such the ground taken by the Scrutiny Committee to ignore the validity issued to Jayashree Laxman Gaikwad cannot be found to be consistent with the law laid down by this Court.

7. In view of above, we are of the opinion that this petition deserves to be allowed with necessary directions to be issued to the respondent no.1.

8. The Writ Petition is allowed. The impugned order is hereby quashed and set aside.

9. The respondent no.1 is directed to issue Tribe Validity Certificate to the petitioner as she belonging to 'Mana' Scheduled Tribe within a period of four weeks from the date of receipt of the order.

10. Rule accordingly. No costs.

(ANIL S.KILOR, J.)

(SUNIL B. SHUKRE, J.)