



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

WRIT PETITION NO.6873/2019

Mr. Shreyas Sanjay Nannaware,
aged 18 Yrs., Occ. Student,
R/o Plot No.47, Maa Bhagwati Nagar,
Manewada Ring Road, Nagpur.

... Petitioner

- Versus -

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli,
through its Deputy Director and
Member Secretary, Complex Area
Near Z.P. School, Gadchiroli,
Dist. Gadchiroli.

2. Sub-Divisional Officer,
Chimur, Dist. Chandrapur.

... Respondents

Mr. Ananta Ramteke, counsel for the petitioner.

Mr. S.A. Ashirgade, Additional Government Pleader for respondent Nos.1 and 2.

CORAM: A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.

DATE : 22.8.2023

ORAL JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

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

Heard finally by consent of learned counsel for the parties.

2. The petitioner is challenging the invalidation of tribe claim of the petitioner dated 3.7.2018. The petitioner has submitted the old and pre-constitutional documents showing the old entries of great-grandfather, father and other relatives of Mana Scheduled Tribe and the validity certificate issued to his cousin sister namely Priyanka. The Caste Scrutiny Committee has invalidated the tribe claim of the petitioner stating that though the old entries are of Mana, they do not specifically mention that they are of Scheduled Tribe and the validity certificate of the cousin sister is not considered as it was issued without vigilance report.

3. The petitioner has filed the documents of grandfather namely Laxman Ramji Nannaware dated 7.7.1942 having the entry of Mana and great-grandfather of the petitioner namely Doma S/o Hareka Mana of year 1920-23. The Committee has not considered the said documents stating that the entry of Mana cannot be said to be indicative of Scheduled Tribe. Though the pre-constitutional documents were submitted by the petitioner,

the said documents are not considered. The petitioner has relied on the judgment of this Court in the case of Gajanan Pandurang Shende V/s. Head Master, Govt. Ashram School, Dongargaon Salod and others reported in **2018(2) Mh.L.J.460**. The family tree also proves that the said persons are in blood relation with the petitioner. As the Committee has not considered the old documents and the validity certificate issued to her blood relative Priyanka, the petitioner has filed this petition.

4. The respondent has produced original documents for our perusal and submitted that though the documents indicate that the entries are of Mana, many persons who are having similar nomenclature are taking advantage of the tribe Mana as it is not mentioned specially that they are from Scheduled Tribe and the Scrutiny Committee has rightly rejected the claim. The validity certificate on which the petitioner has relied is issued without any vigilance report and hence the Committee has not relied on it and rightly rejected the tribe claim of the petitioner.

5. Heard both the learned counsel. Perused the record.

6. The Committee has admitted that the documents which the petitioner has relied are having the Mana entry. The old documents of 1920-23 and 7.7.1942 have been duly verified with the entry 'Mana'. The reason given by the Committee for rejecting the claim only on the ground that there is no entry of Scheduled Tribe mentioned cannot be accepted as there was no Scheduled Tribe Order in existence then. Paragraph No.19 of *Gajanan Pandurang Shende* (supra) being relevant is reproduced below:-

“19. In our view, the concept of recognized Scheduled Tribe for the purposes of giving benefits and concessions was not prevailing prior to 1950 and, therefore, only caste or community to which a person belonged was stated in the birth, school and revenue records maintained. The documents are issued in the printed format, which contains a column under the heading 'Caste' and there is no column of tribe. Irrespective of the fact that it is a tribe, the name of tribe is shown in column of caste. While entering the name, the distinction between caste and tribe is ignored.”

7. The Committee has issued validity certificate to the cousin sister of petitioner namely Priyanka. Said certificate was issued by the same Committee by verifying the same documents.

The family tree proves that she is blood relative of the petitioner. In these facts, the ratio of the decision in the case of Apoorva Vinay Nichale V/s. Divisional Caste Certificate Scrutiny Committee No.1 and others reported in 2010(6) Mh.L.J. 401 would be applicable.

8. Insofar as the aspect of affinity is concerned, this issue has now been decided by the Hon'ble Supreme Court in its decision in Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti V/s. State of Maharashtra and others reported in 2023(2) Mh.L.J. 785. It has been held therein that report of the Vigilance Cell cannot be treated as a litmus test. The entire material on record has to be considered while verifying the tribe claim of a candidate. On perusal of the entire material on record and specially the pre-constitutional entries coupled with issuance of validity certificate to the petitioner's blood relative, it is clear that the petitioner has proved his claim of belonging to Mana Scheduled Tribe. The Scrutiny Committee misdirected itself

when it ignored the probative value of the old documents and gave undue importance to the report of the Vigilance Cell. The said order is, thus, unsustainable.

9. For aforesaid reasons, the following order is passed:-

The impugned order passed by the Scrutiny Committee on 3.7.2018 is set aside. It is declared that the petitioner has proved that he belongs to Mana Scheduled Tribe. The Scrutiny Committee shall within a period of three weeks of receiving copy of the judgment issue validity certificate to the petitioner.

Rule is made absolute in aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)