



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

WRIT PETITION No. 2776 OF 2023

PETITIONERS: : Shri Sanket Narayan Mundare,
age about 22,
At.Po.Bothali (Wahangaon),
Tah. Chimur Dist. Chandrapur
M.9604986470
e_mail.id smundare01@gmail.com

Vs.

RESPONDENTS : 1 The Schedule Tribe Certificate Scrutiny
Committee, Gadchiroli.
Through its Member Secretary,
Gadchiroli -442605
e_mail.Id.tcsc.gad-mah@gov.in

2 The Principal,
Ballarpur Institute of Technology,
Mouza-Bamni, Ballarpur,
Dist. Chandrapur 442701
e_mail.id.bit.ballarpur@gmail.com

3 The State of Maharashtra
Through its Chief Secretary
Mantralaya Extension, Mumbai-400032
cs@maharashtra.gov.in

Shri Narayan Jambhule, Advocate for the petitioner.
Shri A.M.Joshi, AGP for respondent nos. 1 & 3.
Shri M.R.Joharapurkar, Advocate for respondent no. 2.

CORAM: AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ.

RESERVED ON : 08th JANUARY, 2024
PRONOUNCED ON : 15th JANUARY, 2024

JUDGMENT (Per : SMT. M.S. JAWALKAR, J.)

Heard.

2. Rule.

3. Rule made returnable forthwith.

4. Heard finally with the consent of learned counsel appearing for rival parties.

5. The challenge to the petition is to the order of invalidation of the Caste claim of the petitioner by the Caste Scrutiny Committee, Chandrapur. The petitioner claims to be belonging to “Mana” Scheduled Tribe, which is entry No. 18 of the Constitution (Schedule Tribe) Order 1950. The petitioner is Diploma holder in engineering and secured the admission for BE Degree. It is contended that the respondent Scrutiny Committee granted validity to his cousin sister in the year 2018, after conducting the vigilance enquiry, but the respondent ignoring the fact discarded the revenue and

School records of “Mana” entries from 1954-55 to 2015 so also birth entry of 1935 and passed the remarks that these entries of “Mana” cannot be preferred to hold the petitioner as belonging to Scheduled Tribe. The Government of Maharashtra Resolution issued by the Education & Social Welfare Department on 13/10/1967 has clearly mentioned “Mana” in O.B.C. category at entry No. 268. Similarly, in the year 1994, the State Government has notified “Mana” Caste as Special Backward Class at Sr. No. 2.

6. The petitioner obtained the Caste Certificate from the Sub-Divisional Officer, Chimur declaring him belonging to “Mana” Scheduled Tribe dated 07/03/2019 (page no. 96 of the record of Caste Scrutiny Committee). On 09/04/2021, the petitioner submitted his proposal for verification of his Caste Certificate to Ballarpur Institute of Technology, Ballarpur. It had handed over the proposal to the Vigilance Cell on 21/04/2021. The report of Vigilance Cell received by the Committee and Show Cause Notice was sent to the petitioner. Then, the petitioner submitted documents

pertaining to year 1935. The hearing was conducted. Thereafter, the Committee passed impugned order.

7. We have heard the learned counsel for the petitioner as well as learned Assistant Government Pleader for Caste Scrutiny Committee. Perused the original record produced by the learned AGP. There is already one validity certificate in favour of Sushama Vitthal Mundare issued by the Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli Division, Nagpur, which is placed on record along with her affidavit that, she is in relation of the petitioner and belonging to “Mana” Scheduled Tribe. The relation can also be seen from the genealogical tree produced along with report of Vigilance Cell. Apart from this, he placed on record Birth Certificate in respect of his grandfather Dama which pertains to year 17/08/1935 (Date of Birth), 02/09/1935 (Date of Registration), wherein he is shown as “Mana”. Apart from this, the Police Vigilance Cell also collected certified document, which is in respect of Kawadya Mana, great grandfather, which pertains to year 1935, in which he is also

shown as “Mana”. All these documents since 1935 are consistently show that the relatives of petitioner belong to “Mana”. In spite of this, the Caste Scrutiny Committee without applying his mind and without verifying documents, held that there are entries in some matters like Kunbi, Mana, Mani, Mane. However, in the present matter, it is nowhere mentioned anything else than “Mana”. The Caste claim of the petitioner is rejected only on the ground that there are various entries in some of the documents as Mana, Mani, Mane and Kunbi etc. However, in view of validity issued in favour of Sushama Vitthal Mundare who is admittedly cousin of the petitioner, whose relationship is not disputed there was no reason to reject the claim of the petitioner.

8. The learned counsel for the petitioner vehemently submitted that the entry has to be read as it is representing a Class of “Mana” as a whole and it is not permissible either for the executive order or the Caste Scrutiny Committee to artificially subdivide or sub-classify “Mana” Community as one having different groups. The family tree produced on

record clearly established the relation of the petitioner with Sushama Vitthal Mundare. He also established his relation with Kawadu, Dama and Narayan. The document i.e. Extract of Birth, which is registered on 02/09/1935 (Date of Registration) and 17/08/1935 (Date of Birth of Dama), showing Kawadya Mana, Place-Bothale as “Mana”. The document pertaining to the petitioner’s great grandfather Kawadu is dated 02/09/1935 wherein he has been shown as “Mana”. Similarly other documents are also showing the person in blood relation of the petitioner as “Mana”. The interpretation, clarification, explanation of the entries in the Schedule Tribe order is not permitted. The documents prior to year 1950 has not been claimed to be fraudulent document by the Scrutiny Committee. The different view of the same facts and the subsequent case of the blood relation would not entitle the Committee to reject the claim. Therefore, the Committee ought to have validated the certificate in favour of the petitioner. As such, the order of invalidating the claim of the petitioner (“Mana” Scheduled

Tribe) by the Committee cannot be sustained. The petitioner has conclusively established his claim for “Mana” Scheduled Tribe on the basis of documents having probative value. As such, there was no cause for the Scrutiny Committee to raise doubt and invoke the affinity test to which the petitioner has failed to establish his claim. The affinity test has been held not to be a litmus test in establishing a Tribe claim.

9. In view of the pre-constitutional documents of the year 1935 and other subsequent consistent entries, the Committee was not justified in invalidating the claim of the petitioner for failure to satisfy the affinity test. The Committee failed to take into consideration the documents of a person who is in blood relation of the petitioner. As such, the impugned order of the Scrutiny Committee is not sustainable in law and liable to be quashed and set aside. Accordingly, we pass the following order:-

ORDER

- (1) The order dated 20/09/2022 (**Annex.1**) passed by the respondent Scheduled Tribe Certificate

Scrutiny Committee, Chandrapur in the Case bearing No.सआ/अजप्रतसगड/I/275/34/2021 is hereby quashed and set aside.

(2) It is declared that the petitioner has established that he is belonging to “Mana” Scheduled Tribe which is Entry No. 18 of the Constitution (Schedule Tribe) Order 1950.

(3) The Scrutiny Committee shall, within a period of three weeks from the date of direction of this Court, issue validity certificate to the petitioner.

(4) Accordingly, the Writ Petition stands disposed of.

Rule made absolute in the aforesaid terms with no order as to costs.

(SMT. M.S.JAWALKAR, J.)

(AVINASH G. GHAROTE, J.)

B.T.Khapekar