

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1216 OF 2014

Ashalu Pocham Togarwar and others

-vs-

State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.N.C.Phadnis, counsel for the petitioners.
Mr.T.R.Kankale , AGP for the respondent No.1.
Mr.Autkar, counsel h/f Mrs.Bharti Dangre, counsel for the R-2.

CORAM : SMT. VASANTI A. NAIK &
A.M.BADAR, JJ.

DATE : 13.04.2015.

By this petition, the petitioners impugn the order of the Scrutiny Committee dated 12/02/2014, invalidating the claim of the petitioners of belonging to Mannewar Scheduled Tribe.

The petitioners submitted the application to the Scrutiny Committee, Gadchiroli for verification of their caste claim towards Mannewar Scheduled Tribe. Along with the caste certificate, the petitioners tendered several documents including the documents of the Pre-Independence Era. The petitioners had also tendered a genealogical tree on affidavit to show their relationship with Malla Pochya and Lachman Ashanna. The Scrutiny Committee discarded the documents tendered by the petitioners, specially the documents of the Pre-Independence Era, on the ground that the relationship of the petitioners with Malla Pochya and Lachman Ashanna could not be established from the family tree/genealogical tree. The Scrutiny Committee also held that the petitioners were not entitled to secure the caste certificate of Mannewar

Scheduled Tribe as in the extract of the admission register of one of the petitioners, 'Mannepwar' was recorded in the caste column.

Inter alia, it is submitted on behalf of the petitioners that the order of the Scrutiny Committee is liable to be set aside as the Scrutiny Committee has recorded a factually incorrect finding that the petitioners were not related to Malla Pochya and Lachman Ashanna as the names of these persons were not found in the genealogical tree submitted by the petitioners on affidavit. It is stated that in the order passed by the same Scrutiny Committee on 06/07/2012, in an appeal filed by Petitioner Prajwal Togarwar, the Scrutiny Committee had considered the same genealogical tree and had observed in the said order that petitioner Prajwal had clarified about his relationship with Malla Pochya and Lachman Ashanna on the basis of the genealogical tree. It is stated that the genealogical tree was tendered by Prajwal in the appeal filed before the Scrutiny Committee against the refusal on the part of the competent authority to issue the caste certificate to petitioner Prajwal and the genealogical tree was also tendered by the petitioners along with their caste claims. It is stated that the Scrutiny Committee illegally rejected the caste claim of the petitioners without a proper perusal of the genealogical tree tendered by the petitioners on affidavit.

Shri Autkar, the learned counsel holding for Mrs. Bharti Dangre, the learned counsel for the respondent-Scrutiny Committee, states that since the petitioners had secured the caste claim on the basis of a document which recorded "Mannepwar" in the caste column, the claim of the petitioners was rightly rejected. It is, however, fairly stated that it appears from the genealogical tree tendered by the

petitioners before the Scrutiny Committee and annexed to the petition that the Scrutiny Committee has not considered the relationship of the petitioners with Malla Pochya and Lachman Ashanna. It is stated that since in an old document 'Mannepwar' was recorded in the caste column, the Scrutiny Committee rightly rejected the claim of the petitioners.

On hearing the learned counsel for the parties, it appears that the Scrutiny Committee was not justified in holding that the petitioners had not established their relationship with Malla Pochya and Lachman Ashanna on the basis of the genealogical tree. It also appears that the Scrutiny Committee has incorrectly recorded that the name of Ashanna does not appear in the three genealogies filed by one of the petitioners and also in the genealogical tree filed by the petitioners. The documents listed at Sr.No.XXXII and XXXIII in the impugned order are old documents, having great probative value and it was therefore necessary for the Scrutiny Committee to consider after proper perusal of the genealogical trees submitted by the petitioners whether the petitioners are related to Malla Pochya and Lachman Ashanna. The Scrutiny Committee should have independently applied its mind to the various documents tendered by the petitioners while scrutinizing the caste claim of the petitioners. We find that the Scrutiny has erroneously observed that the petitioners have sought the benefit meant for Mannewar Scheduled Tribe by fabricating a document, as there is nothing on record to show that the petitioners had interpolated the extract of admission register in which the caste of one of the petitioners was recorded as 'Mannepwar'. This is not a case where the initial entry was Mannepwar and the petitioners had interpolated the document or converted the entry from Mannepwar to Mannewar. At least, that is not

the case tried to be made out by the Scrutiny Committee in this Court.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned order is quashed and set aside. The matter is remanded to the respondent No.2 Scrutiny Committee for a decision on the caste claim of the petitioners in accordance with law. The services of the petitioners are protected till the caste claim of the petitioners is decided. The petitioners undertake to appear before the Scrutiny Committee on 05/05/2015 so that issuance of notice to the petitioners could be dispensed with.

Order accordingly. No costs.

JUDGE

JUDGE