

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5061 OF 2018

Gaurav Rajendra Chaudhari,
aged 19 years, residing at “Hast”,
405, Tarangan Complex, Vayale Nagar,
Khadakpada, Kalyan (West), Dist. Thane.

... Petitioner

Versus

1. State of Maharashtra
through its Secretary, Tribal
Development Department,
Mantralaya, Mumbai-400 001.
2. Scheduled Tribe Certificate Scrutiny
Committee, Gadchiroli through its
Member Secretary, having its office
at Gadchiroli, Dist. Gadchiroli.
3. Directorate of Technical Education,
Maharashtra State, having its office
at 3, Mahapalika Marg, Dhobi Talao,
Mumbai-400 001.
4. Saraswati College of Engineering
through its Principal, having its office
at Plot No.46, Sector-5, behind MSEB
Sub.Station, near Utsav Chowk,
Kharghar, Navi Mumbai.

... Respondents

Mr. R.K. Mendadkar for the Petitioner.

Ms. Reena A. Salunkhe, A.G.P. for the Respondent Nos.1 to 3.

Mr. Vinod Hariram Pandit, Law Officer, Scheduled Tribe Certificate Scrutiny
Committee (S.T.C.S.), Gadchiroli.

**CORAM : S.C. DHARMADHIKARI &
R.I. CHAGLA JJ.**

RESERVED ON : 7th JANUARY, 2020.

PRONOUNCED ON : 14th JANUARY, 2020.

ORAL JUDGMENT :

1 Rule. Rule made returnable forthwith. Heard by consent.

2 This Writ Petition has been filed under Article 226 of the Constitution of India challenging the impugned decision dated 23.02.2018 of the Respondent No.2, Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli, whereby the Respondent No.2 Committee invalidated the tribe certificate of the Petitioner as belonging to Mana, Scheduled Tribe. The Petitioner has sought the consequential relief of the validating the Caste Certificate dated 02.12.2015 and for issuance of the Caste Validity Certificate.

3 The Petitioner claims to belong to the Mana, Scheduled Tribe. Respondent No.1 is the State of Maharashtra through the Secretary, Tribal Development Department and Respondent No.2 is as mentioned the Scrutiny Committee constituted in accordance with Section 6(1) of the Caste Certificate Act, 2001. Respondent No.3 is the Directorate of Technical Education and Competent Authority, Maharashtra State, who had granted

admission to the Petitioner in the first year of Engineering Degree Course (Civil) under reserved category of Scheduled Tribe during the academic year 2014-2015 in the Respondent No.4 College where the Petitioner is pursuing studies in the Engineering Degree Course. Respondent No.4 College is receiving 100% grant-in-aid from the Respondent No.1-State.

4 The Petitioner had moved the Respondent No.2 Committee through his junior College on 10.11.2014 for validation of his tribe certificate and in support of his application for validation of his tribe certificate as belonging to Mana, Scheduled Tribe, he had submitted documentary evidence. The Petitioner has in the Petition relied upon the letter dated 10.11.2014 addressed to the Caste Scrutiny Committee, Nagpur, by the Birla College of Arts, Commerce and Science, Kalyan, District Thane, in this context. The Petitioner has in the Petition referred to the documents which were submitted to the Respondent No.2 Committee and which includes the pre-constitution documents of Petitioner's great grandfather from the paternal side by name Naktya Dhond Janu, whose caste is recorded as Mana in the year 1921-1922 in the revenue record. The Petitioner has also relied upon the School record of the Petitioner's father which also shows his caste recorded as Mana on 16.06.1972. The Petitioner has been granted caste certificate by the competent authority of jurisdiction in the prescribed form and in the prescribed manner on

23.09.2004 as belonging to Mana Scheduled Tribe. The Petitioner has also relied upon the certificate issued to the Petitioner's father by the railway authorities who were his employees and who accepted the Petitioner's father as a member of the Mana, Scheduled Tribe.

5 The Petitioner states that his blood relatives from the paternal side were adjudicated as belonging to Mana tribe by the competent Caste Scrutiny Committee. These persons are Ramesh Nathuji Chaudhari and Bhumika Ramesh Chaudhari who are blood relatives of the Petitioner. A genealogy tree had been filed by the Petitioner's father of his family before the Respondent No.2 Committee vide affidavit dated 21.02.2018.

6 The Petitioner states that when he was admitted in primary school, his social status was described as Mana (Scheduled Tribe). A reliance is placed on the copy of the primary school admission register extract issued by the Headmaster of the Model English School, Kolsewadi, Kalyan (East), District Thane, in this context. The Petitioner was also granted caste certificate in form 'C' on 2nd December, 2015 by the competent authority of jurisdiction as belonging to Mana, Scheduled Tribe which is relied upon in the Petition. As the submission of the caste validity certificate is one of the conditions for claiming reservation benefits while pursuing higher education, the Petitioner had as mentioned applied to the

Respondent No.2 Committee for validation of his tribe certificate. Since the caste validation certificate had not been received, the admission of the Petitioner in the Respondent No.4 College was called in question. The Petitioner was, therefore, compelled to move this Court in Writ Petition No.411 of 2016 seeking direction to the Respondent No.2 Committee to dispose of the application of the Petitioner for grant of caste validity certificate in accordance with law. This Court at the admission stage had, by order dated 01.10.2016, directed the Respondent No.2 Committee to take appropriate decision in accordance with law as expeditiously as possible and preferably within three months from the date of receipt of the said order and the Petitioner was directed to appear before the Respondent No.2 Committee on 13.10.2016.

7 The Petitioner had thereafter appeared before the Respondent No.2 Committee on the scheduled date and brought to the notice of the Respondent No.2 Committee, the said order dated 01.10.2016 passed by this Court. The Respondent No.2 Committee through the Vigilance Cell had thereafter conducted home and school enquiry and submitted its report on 17.11.2017. The Petitioner states that the report is in favour of the Petitioner save and except remarks of the Research Officer of the Vigilance Cell attached to the Respondent No.2 Committee, which is cyclostyled in nature. The Respondent No.2 Committee upon receipt of the

enquiry report from its Vigilance Cell, issued letter dated 20.01.2018 which was received by the Petitioner on 22.01.2018 thereby directing the Petitioner to file reply to the said enquiry report dated 17.11.2017. The Petitioner states that an exhaustive reply has been filed on 27.01.2018. The Petitioner has pointed out that the Vigilance Cell has not reported that there is any tampering, manipulation, interpolation in the documentary evidence including the public records maintained by the authorities which are relied upon by the Petitioner in support of his claim. It has been stated by the Petitioner that the documentary evidence which have been submitted by the Petitioner must prevail over oral evidence in answering the core issues raised before the Respondent No.2 Committee. The Petitioner was called for hearing on 22.02.2018 when the father of the Petitioner remained present for hearing and his statement on the socio-cultural affinity was recorded by the Respondent No.2 Committee and after the hearing, the father of the Petitioner, Respondent No.2 Committee closed the Petitioner's case for orders. The impugned order dated 23.02.2018 was thereafter passed and being aggrieved by the impugned order the Petitioner has filed the present Writ Petition.

8 Mr. Mendadkar, learned Counsel appearing for the Petitioner has submitted that the impugned decision of the Respondent No.2 Committee has been passed without taking into account the various

documentary evidence relied upon by the Petitioner including the caste validity certificates granted to the blood relatives of the Petitioner from his paternal side. The Respondent No.2 Committee ought to have granted the caste validity certificate to the Petitioner, particularly when the Petitioner had also relied on pre-constitution document viz. the revenue record of the year 1921-1922 where the caste of the great grandfather of the Petitioner from the paternal side is recorded as Mana in the year 1921-1922. He has relied upon the decision of the Apex Court in *Anand vs. Committee for Scrutiny and Verification of Tribe Claims*¹ at para 22 and the order dated 29th November, 2017 in *Veena Godshe vs. State of Maharashtra* in support of this contention. He has further submitted that the Petitioner's blood relatives viz. Ramesh Nathuji Chaudhari and Bhumika Ramesh Chaudhari have also been adjudicated as belonging to Mana, Scheduled Tribe.

9 He has submitted that the Respondent No.2 Committee has taken into consideration the non-mentioning of "Scheduled Tribe" in the documentary evidence of the year 1921-1922, thereby discarding the said documentary evidence. He has submitted that "Scheduled Tribe" came into existence only after the enactment of Constitution of India w.e.f. 26.01.1950 upon the President of India exercising powers vested by virtue of Article 342(1) of the Constitution of India, by promulgating the First

¹ (2012) 1 SCC 113

Presidential Constitution order (Scheduled Tribes), 1950 on 06.09.1950. He has submitted that the word “Scheduled Tribe” could not have been mentioned in the column caste in the year 1921-1922 and by discarding the documentary evidence produced by the Petitioner in the year 1921-1922, clearly shows non-application of mind on the part of the Respondent No.2 Committee. He has also dealt with the findings on the other issues which had arisen before the Respondent No.2 Committee which are not necessary to advert to herein.

10 Having considered the above submissions, it is necessary to note that there is no reply filed on behalf of the Respondent Nos.1 to 3 although the Petition has been filed on 02.04.2018 and served upon these Respondents.

11 This Court had by the order dated 03.12.2019 directed the learned A.G.P. appearing for the Respondent Nos.1 to 3 to produce the original documents and since the Respondent No.2 Committee is located at Gadchiroli, the matter is posted today i.e. on 07.01.2020. The learned A.G.P. has produced the file containing the original documents.

12 Having perused the original records and the findings of the Respondent No.2 Committee, it would be appropriate to set aside the impugned decision of the Respondent No.2 Committee dated 23.02.2018.

This considering that two of the blood relatives of the Petitioner who have been mentioned in the chart set out in paragraph 2 of the impugned decision at item Nos.15 and 16 viz. Ramesh Nathuji Chaudhari, mentioned as the Petitioner's cousin-cousin grandfather from the paternal side and Bhumika Ramesh Chaudhari, mentioned as the Petitioner's cousin-cousin Aunt also from the paternal side, have been adjudicated as belonging to Mana Tribe by the Competent Caste Scrutiny Committee. The caste validity certificate have been discarded by the Respondent No.2 Committee on the specious ground that there was no police scrutiny of the above two persons carried out by the Vigilance Cell of the scrutiny Committee when the caste validity was granted. The Respondent No.2 Committee has thus erroneously discarded the certificate of validity granted in favour of the Petitioner's blood relatives from the paternal side. The validity certificates are of probative value and the Committee ought to have considered and applied its independent mind to them. Further, the Committee has discarded the pre-constitution document viz. Revenue record of the great grandfather of the Petitioner from the paternal side viz. Naktya Dhond Janu whose caste was recorded as "Mana" in the year 1921-1922. This has been discarded also on the specious ground that the words "Scheduled Tribe" was not mentioned as against the caste entry of 'Mana'. Considering the submission on behalf of the Petitioner in this context and more

particularly that there is no finding of any tampering, manipulation or interpolation in the documentary evidence, these documents required re-consideration by the Respondent No.2 Committee.

13 We accordingly set aside the impugned decision dated 23.02.2018 passed by the Respondent No.2 Committee and remand the matter back to the Respondent No.2 Committee for re-consideration in accordance with law of the Petitioner's claim for validation of the caste certificate of the Petitioner as belonging to the Mana Scheduled Tribe. All contentions raised by the Petitioner herein are expressly kept open to be urged before the Respondent No.2 Committee. The Respondent No.2 Committee shall upon hearing take appropriate decision in respect of the Petitioner's claim as expeditiously as possible and preferably within three months from the date of receipt of this order. The Petitioner to appear before the Respondent No.2 Committee on 20.01.2020.

14 Rule is made absolute in the above terms with no order as to costs.

(R.I. CHAGLA J.)

(S.C. DHARMADHIKARI, J.)