

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

WRIT PETITION NO.1915 OF 2014

Ranjana d/o Ganpat Garate
alias w/o Devnath Rane,
Aged about 38 years,
Occupation Service, Health Attendant
(Nurse) R/o Masal (Bu.) Tah. Chimur,
Dist. Chandrapur presently at Wadsi,
Chimur, Dist. Chandrapur

... Petitioner

-vs-

1. Scheduled Tribe Certificates
Scrutiny Committee, Gadchiroli,
Division Nagpur, Through its Chairman
Office at Complex Area, Near Zilla Parishad
Sankul, Gadchiroli, Tq. And Dist. Gadchiroli
2. State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai 32
3. District Health Officer,
Zilla Parishad, Chandrapur,
Tah. and Dist. Chandrapur
4. Chief Executive Officer,
Zilla Parishad, Chandrapur,
Tah. and Dist. Chandrapur
5. Medical Officer,
Primary Health Center,
Neri, Tah. Chimur,
District Chandrapur
6. Medical Officer,
Sub-Primary Health Center,
Wadsi, Tah. Chimur,
District Chandrapur
7. Sub-Divisional Officer, Warora,
Office at Tahsil Office, Warora,

Tah. Warora, Dist. Chandrapur

8. The Collector, Chandrapur,
Collectorate Building, Chandrapur,
Ta. and Dist. Chandrapur

... Respondents

Shri Ananta Ramteke, Advocate for petitioner.

Ms Shamsi Haider, Assistant Government Pleader for respondent Nos.1,2,7 and 8..

Shri M. V. Mohokar, Advocate for respondent No.4.

CORAM : A. S. CHANDURKAR AND VINAY JOSHI, JJ.

DATE : FEBRUARY 18, 2020

Civil Application No.2585 of 2019

For the reasons stated in the application, the same is allowed. The writ petition is taken up for hearing forthwith.

Civil Application is disposed of.

Writ Petition No. 1915 of 2014

Oral Judgment : (Per : Vinay Joshi, J.)

Rule. Heard finally with consent of learned counsel for the parties.

The petitioner's caste-claim for 'Mana' Scheduled Tribe which is enlisted at Serial No.18 of the Scheduled Tribes Order 1950 has been rejected by the impugned order dated 05/03/2014 passed by the respondent No.1-The Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli which is the subject matter of challenge in this writ petition.

The petitioner's caste-claim was forwarded to the respondent No.1-Scrutiny Committee for verification and issuance of validity certificate

through her employer respondent Nos.3 to 5. The petitioner has produced several pre Constitutional documents of her parental relations to substantiate her claim of 'Mana' Scheduled Tribe. Vigilance enquiry was conducted which has also collected certain documents. On examination of the documents and verification, petitioner's caste-claim was rejected on the premise that the petitioner has failed to adduce sufficient documents in support of her claim of 'Mana' Scheduled Tribe as well as on account of her failure in affinity test. On examination of documents it reveals that in Vigilance enquiry the documents submitted were the birth certificate of petitioner's parental aunt namely Anjani Warlu of the year 1940 and tax receipt of her grandfather Warlu Zingu of the year 1951. Both these documents bear mention of "Mana" caste. The Enquiry Officer has not doubted the correctness of these documents but affirmed the existence of these old documents which show the entry of 'Mana' caste.

2. The respondent No.1-Scrutiny Committee has not considered these documents in proper perspective. This Court in case of *Gajanan s/o Pandurang Shende vs. Head-Master, Govt. Ashram School* 2018(2) Mh.L.J. 460 ruled that entry 'Mana' at serial No.18 in Constitution (Scheduled Tribes) Order must be read as it is and no evidence can be led to exclude certain communities of 'Mana' from granting protection or benefits. The Scrutiny Committee ought to have adverted to those documents some of

which are pre Constitutional. In view of above decisions it is not possible to draw any different interpretation to the entry 'Mana' caste. The caste-claim was also rejected on the point of failure in affinity test. The Honourable Apex Court in case of *Anand vs. Committee for Scrutiny and Verification of Tribe Claims and ors. 2011(6) Mh.L.J. (S.C.) 919* has ruled that the affinity test shall be used for the purposes of corroboration but it cannot be considered as a litmus test.

5. The reasons accorded by the Scrutiny Committee for rejection of caste-claim are not justifiable. Pre Constitutional documents carry much weight and strongly support the petitioner's case of belonging to 'Mana' Scheduled Tribe. In view of above we set aside the impugned order and hold that the petitioner belongs to 'Mana' Scheduled Tribe. By allowing this writ petition we direct the respondent-Scrutiny Committee to issue caste validity certificate of 'Mana' Scheduled Tribe to the petitioner within period of eight weeks from the date of communication of this order.

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

JUDGE

JUDGE