

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

WRIT PETITION NO.2477 OF 2014

Shobha d/o Shrawan Shrirame
Aged about 59 years,
Occupation Retired,
R/o Jatpura Ward No.6.
Dist. Chandrapur

... Petitioner

-vs-

1. The Scheduled Tribe Caste Certificates
Scrutiny Committee, Gadchiroli,
Through its Chairman
2. President,
The Education Society,
Chandrapur
3. The Head-mistress,
New English High School
Chandrapur
4. The Education Officer (Secondary)
Zilla Parishad, Chandrapur

... Respondents

WITH

WRIT PETITION NO.2478 OF 2014

Mangala d/o Shrawan Shrirame
Aged about 57 years,
Occupation Service,
R/o Jatpura Ward No.6.
Dist. Chandrapur

... Petitioner

-vs-

1. The Scheduled Tribe Caste Certificates
Scrutiny Committee, Gadchiroli,
Through its Chairman
2. The President,
Lokmanya Tilak Smarak Mandal,
Chandrapur

3. The Head-mistress,
Lokmanya Tilak Girls High School
Chandrapur

4. The Education Officer (Secondary)
Zilla Parishad, Chandrapur

... Respondents

Ms P. D. Rane, Advocate for petitioners.

Shri J. Y. Ghurde, Assistant Government Pleader for respondent No.1 and 4.

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

DATE : FEBRUARY 18, 2020

Civil Application Nos.15 and 16 of 2020

For the reasons stated in the applications, the same are allowed.

Both the writ petitions are taken up for hearing forthwith.

Civil Applications are disposed of.

Writ Petition Nos.2477 and 2478 of 2014

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

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

The caste-claim of petitioner-Shobha in Writ Petition No.2477/2014 and petitioner-Mangala in Writ Petition No.2478/2014 for 'Mana' Scheduled Tribe has been rejected by common order dated 12/03/2014 passed by the respondent No.1-The Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli which is the subject matter of challenge in these writ petitions.

2. The petitioners are the real sisters who belong to Mana Scheduled Tribe which is enlisted at Serial No.18 of the Scheduled Tribes Order 1950. The petitioners' caste-claim was forwarded through their respective employers to the respondent No.1-Scrutiny Committee for verification and issuance of validity certificate. The petitioners have submitted various documents including pre Constitutional documents of their parental relations to substantiate their claim of 'Mana' Scheduled Tribe. Vigilance enquiry was conducted which has also collected certain documents. On examination of the documents and verification, petitioners' caste-claim was ultimately rejected on the premise that the petitioners have failed to adduce sufficient documents in support of their claim of 'Mana' Scheduled Tribe as well as on account of their failure in affinity test.

3. On examination of documents it reveals that the petitioners have submitted in all 30 documents to support their caste-claim of 'Mana' Scheduled Tribe. Particularly the petitioners have submitted four pre-Constitutional documents which are at Serial Nos.5,8,9 and 14 at impugned order. These documents pertain to the petitioners' grandfather, cousin grandfather and uncle from the year 1913 onwards. Photocopies of these documents are also produced on record. The Vigilance Cell has not doubted genuineness of these documents. However, as there is no specific entry of Scheduled Tribe in the caste column, the Scrutiny Committee has declined

to rely on these documents. Moreover, the petitioners' caste-claim was also rejected on the ground of failure in affinity test.

4. It is seen that the petitioners' caste-claim is well supported by pre Constitutional documents which are verified through Vigilance Cell. These documents show entry of 'Mana' caste. This Court in case of ***Gajanan s/o Pandurang Shende vs. Head-Master, Govt. Ashram School*** reported in ***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 the documents which are pre Constitutional. In view of above decision it is not possible to draw any different interpretation to the caste entry of 'Mana'.

The caste-claim was also rejected on the ground of failure of 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. Moreover during pendency of these petitions caste validity certificate has been issued to one Chinmay who is petitioners' nephew (real brother's son) on 25/06/2019. In view of the decision of this Court in ***Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee and ors.*** ***2010(6) Mh.L.J. 401***, it is

mandatory to issue caste validity certificate if the validity is already issued to the blood relative of the claimant.

5. In the circumstances it is found that there are three pre Constitutional documents and prior validity in the family. The reasons accorded by the Scrutiny Committee for rejection of the caste-claim of the petitioners are not justifiable. Pre Constitutional documents carry much weight and strongly support the petitioners' case of belonging to 'Mana' Scheduled Tribe. In view of above we set aside the impugned order and hold that the petitioners belong to 'Mana' Scheduled Tribe. By allowing both writ petitions we direct the respondent-Scrutiny Committee to issue caste validity certificate of 'Mana' Scheduled Tribe to the petitioners within period of eight weeks from the date of communication of this order.

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

JUDGE

JUDGE