

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

WRIT PETITION NO. 604/2021.

Abhishekh Shrihari Deogade. ... Petitioner.

-VERSUS-

1.The Scheduled Tribe Certificate
Scrutiny Committee, Nagpur and others. ... Respondents.

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Shri S.P. Khare, Advocate for the Petitioner.

Shri A.A. Madiwale, Assistant Government Pleader for
Respondent Nos.1 and 2.

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**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATE : 4 FEBRUARY 2021.

P.C.

Heard learned Counsel for the Petitioner and learned
Assistant Government Pleader for the Respondent Nos. 1 and 2.

2. The Petitioner has challenged the order passed by the
Scheduled Tribe Scrutiny Committee, Nagpur dated 11 January
2021, invalidating the caste certificate issued to the Petitioner on

25 June 2020 as belonging to 'Mana', Scheduled Tribe.

3. Before the Scrutiny Committee, the Petitioner has produced documents of himself, his father, grand father, school leaving certificate of his grand father of the year 1943 showing entry as 'Mana'. The Vigilance Cell enquiry was conducted and the Vigilance Cell has produced two documents on record. The type of documents were 'Bandobast Khasara' in respect of great-great grand father of the Petitioner showing the entry as 'Kunbi' of the years 1911 and 1912.

4. The Scrutiny Committee, on the basis of the said documents of the year 1911 and 1912, did not take into consideration the School Leaving Certificate of Petitioner's grand father of the year 1943. The Scrutiny Committee also observed that the School Leaving Certificate of the year 1943 cannot be considered since the original school register was not available. The Scrutiny Committee opined that the School Leaving Certificate of the Petitioner's grand father was doubtful and therefore, the original school register was called for and it was informed that the same is destroyed.

5. The Scrutiny Committee considering this position and other aspects, such as affinity test, invalidated the caste claim of the Petitioner. As regards the entries of the year 1911 and 1912 in respect of Petitioner's great grand father are concerned, they

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are not school records, but, Bandobast Khasra. Whether that would stand as same evidentiary value as of the School Leaving Certificate, is not explained by the Scrutiny Committee.

6. The Petitioner has produced a Primary School Leaving Certificate of his grand father of the year 1943. The Committee has not taken that into consideration on the ground that the original record is lost. To ascertain whether the School leaving certificate was issued recently or it was an old document, we had called upon the Petitioner to produce the original thereof. The learned Counsel for the Petitioner has produced the original which does show entry 'Mana' and on the look of the document itself, which is laminated, it does not seem to have been issued recently. The document was shown to the learned Assistant Government Pleader who has also shown it to the officer, and accepted that the document appears to be old but, the argument on this document is that the original record is not traceable.

7. According to us, the document of the year 1943 could not have been discarded in such a summary fashion. Both the documents of the year 1943 and 1911-12 are prior to 1950, and therefore, the Scrutiny Committee ought to have evaluated this evidence in totality. The Scrutiny Committee also ought to have considered that the 1943 documents is a School Leaving Certificate wherein the entries are based on the information

given by the parents, while the revenue record is maintained by the authorities. Therefore, we are of the opinion that the document of the year 1943 i.e. school leaving certificate cannot be discarded only on the ground that the original register is lost, since the school leaving certificate by itself is an old document. This evidence will have to be evaluated along with the 1911-12 documents, and thereafter a decision considering the totality of the evidence will have to be taken.

8. This Court exercises certiorari jurisdiction where the decision making process is examined. Once we find that a relevant piece of evidence has been erroneously omitted from the consideration, the exercise will have to be set aside and the authority will have to be directed to reconsider the evidence in totality. Accordingly, the Writ Petition is disposed of by quashing and setting aside the impugned order dated 11 January 2021. The caste claim of the Petitioner stands restored to the file of the Scrutiny Committee.

9. If the Petitioner has any other submission to make, the Petitioner is granted one week's time to do the same in writing. Considering that all the material is already on record and the fact that the Petitioner is a student, we direct the Scrutiny Committee will take a decision after the representation is so received, within a period of six weeks.

10. Writ Petition is accordingly disposed of.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Rgd

**Rakesh
Dhuriya**
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by Rakesh
Dhuriya
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