

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

WRIT PETITION NO. 684/2021.

Atharv Rajendra Narnaware. ... Petitioner.

-VERSUS-

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

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Shri S.P. Khare, Advocate for the Petitioner.
Ms. K.Deshpande, Assistant Government Pleader for the
Respondent Nos.1 to 3.

.....

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

DATE : 3 FEBRUARY 2021.

P.C.

Heard learned Counsel for the Petitioner and learned
Assistant Government Pleader for Respondent Nos. 1 to 3.

2. By this petition, the Petitioner has challenged the
orders passed by the Respondent – Scrutiny Committee dated 15
January 2021. The Scrutiny Committee has invalidated the caste

certificate issued to the Petitioner on 10 February 2019 as belonging to “Mana”, Scheduled Tribe.

3. The learned Counsel for the Petitioner first submitted that the Petitioners’ father was issued validity certificate and the Scrutiny Committee has erroneously discarded the same. The learned Counsel submitted that the validity certificate was issued pursuant to the decision of the Apex Court, which has confirmed the decision of the High Court.

4. We have perused copies of the decision rendered by the High Court and Apex Court referred to by the Petitioner. These decisions arose from a petition filed by an Association representing interest of Mana Community. In this decision the Apex Court has settled the position of law. However, the validity certificate was not issued to the Petitioners’ father by the High Court or the Apex Court after evaluating the evidence. In case of Petitioners’ father the Scrutiny Committee has observed that the validity certificate issued to Petitioners’ father was without conducting any vigilance cell enquiry. Therefore, no fault can be found with the approach of the Scrutiny Committee in examining the evidence afresh in case of the Petitioner.

5. The Scrutiny Committee through Vigilance Cell enquiry found the certain documents of pre-constitutional period in respect of the Petitioner’s great grand father and cousin great grand father of 8 September 1920, 21 September 1921

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and 23 October 1935, wherein reference is made that the entries of 'Bhor Mani', there are certain subsequent documents where entries is only 'Mani'. Certificate in respect of Petitioners' grand father of 22 June 1934 shows entry as 'Mana'.

6. As regards entry 'Mani' is concerned, the learned Counsel for the Petitioner has relied on the decision of *Shubham Sharad Gadmade .vrs. Scheduled Tribe Caste Certificate Scrutiny Commitee, Nagpur*¹, to contend that the entry 'Mani' and 'Mana' with their mixed entries is not to be considered as fatal to the caste claim. Even assuming to be so, the entry 'Mani' is of post constitutional period. As regards 'Bhor Mani' is concerned, the learned Counsel for the Petitioner sought to urge that 'Bhor Mani' should be included in the entry. 'Bhor' is only a sequence of first name and therefore, this entry should not be considered as fatal.

7. It is not possible for us to do so, as it would amount to modifying the entries in the Constitutional Order. Even otherwise, it is not necessary for us to conclude this issue finally, as by the order which we propose to pass, the proceedings are to be remanded to the Scrutiny Committee. The reason for remand is that the Scrutiny Committee has simply avoided the entry of the year 1934 in respect of grand father of petitioner as 'Mana' from consideration. With this entry, the Scrutiny Committee

has observed that a stand alone entry could not be considered, however, the fact that this entry appears, is not disputed. Though this Court will not sit in appeal over the assessment of evidence by the Scrutiny Committee, if it is found that a relevant piece of evidence is omitted from the consideration, the decision making process would be erroneous.

8. Even the document in respect of Petitioners' cousin grand father of 23 April 1938 has not been taken into consideration on the ground of manipulations in the record. It is the case of the Petitioner that there is no such manipulation and the entry has symbol of 'ditto', as stated by the Vigilance Cell.

9. Considering this position, it is clear that the Scrutiny Committee has not assessed the evidence in totality. It will have to be take into consideration the entries of 1934 and 1938 and evaluate the same along with the entry of the year 1920, 1921 and 1935 and then come to a conclusion on totality of evidence. Since this exercise is not done, we quash and set aside the impugned order dated 15 January 2021 passed by the Scrutiny Committee. The caste claim of the Petitioner stands restored to the file of the Scrutiny Committee, Amravati. Considering the fact that the petitioner is desirous of continuing his education further, and that all records are available and only assessment of evidence is to be done, we direct that the Petitioner will present additional representation if any, within a period of one week

from today. Thereafter, the Scrutiny Committee will take a decision in the light of what is observed above, within further period of 4 weeks.

10. The Writ Petition is accordingly disposed of.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Rgd

Rakesh
Dhuriya

Digitally signed
by Rakesh
Dhuriya
Date:
2021.02.08
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