

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No. 621/2021

Asvinta Dhone

Petitioner.

Versus

Scheduled Tribe Caste Certificate and another

Respondents.

Shri M.V. Bute, Advocate for the Petitioner.

Shri A.A. Madiwale, AGP for Respondent No.1.

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

DATED : 24 FEBRUARY 2021

P.C.:

Heard learned Counsel for the parties.

2. On 2 February 2021, following order was passed :-

"The learned Counsel for the Petitioner points out that the Scrutiny Committee passed the composite order in respect of three claims that included the claim of the Petitioner and cousin of the Petitioner Shubham Bandu Dhone. The learned Counsel for the Petitioner states that in case of Shubham in Writ Petition No.6839 of 2018 the Division Bench has passed an order on 22 April 2019 directing the Scrutiny Committee to issue validity certificate.

2. *The learned Assistant Government Pleader seeks time to take instructions.*

3. *Stand over to 16 February 2021 under the caption "for directions".*

4. *In case, no reply is filed or no distinguishing facts are pointed out, the Court may proceed to pass the same order as in Writ Petition No.6839 of 2018 to maintain judicial consistency.*

5. *Issue notice to the Respondents returnable on 16 February 2021.*

6. *Mr. A.A. Madiwale, learned Assistant Government Pleader waives service of notice on behalf of Respondent No.2.*

7. *The Petitioner will serve the Respondent No.2 by way of private service of notice."*

3. On 17 February 2021 at the request of the learned Assistant Government Pleader the Petition was adjourned till today for disposal. As noted earlier, the Scrutiny Committee jointly considered the claim of the Petitioner and his brother. The case of the Petitioner's brother that is Writ Petition No.6839/2018 was disposed of by the Division Bench (Coram- Sunil B. Shukre and Smt. Pushpa V. Ganediwala, JJ) by the following order :-

"1. *Rule. Heard forthwith by consent of parties.*

2. *In this case there is no dispute about the existence of pre-constitutional document in the form of revenue assessment for the year 1918-19 in the name of Pandu, great-great grand-father of the petitioner in which Pandu son of Vithu is shown to be belonging to caste Mana. There are other supporting documents like list of tax assessment for the years 1960-62 in the name of Sakharam Pandu, great grand-father of the petitioner and Record*

*of Right pertaining to the year 1954-55. There is no dispute about the relationships claimed by the petitioners. Therefore, we are of the view that the facts of this case are covered by the view already take by this Court in the case of **Mrunali Shamrao Wakade v. The Vice-Chairman/Member-Secretary, STC and ors** rendered in WP No.5171 of 2018 and other connected petitions on 30th August 2018.*

3. Accordingly, writ petition is allowed. The impugned order is hereby quashed and set aside. Respondent no.1 Committee is directed to issue validity certificate to the petitioner as he belonging to "Mana" scheduled tribe within four weeks from the date of receipt of this order.

4. Rule is made absolute in the above terms. No costs."

As noted earlier to maintain judicial consistency, Writ Petition will have to be allowed.

4. Accordingly, the Writ Petition is allowed. The impugned order is quashed and set aside. Respondent No.1 Committee is directed to issue validity certificate to the Petitioner as he belonging to "Mana" Scheduled Tribe within four weeks from the date of receipt of this order.

[ANIL S. KILOR, J]

[NITIN JAMDAR, J]