

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

WRIT PETITION NO. 3849 OF 2021

PETITIONER :- Durga Namdeo Dodke, aged about 27 years, Occ. Education, At .Post, Ambeneri, Tah. Chimur, District Chandrapur.

...VERSUS...

RESPONDENT :- The Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli through its Deputy Director and Member Secretary, Complex Area near Z.P. School, Gadchiroli, Distt.Gadchiroli.

Mr.Ananta Ramteke, counsel for the petitioner.
Mr.D.P. Thakare, Addl.GP for respondent.

CORAM : SUNIL B.SHUKRE &
ANIL L. PANSARE, JJ.

DATE : 08.12.2021.

ORAL JUDGMENT (Per : Sunil B.Shukre, J.)

Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The petitioner claims herself to be belonging to 'Mana' Scheduled Tribe. She had submitted her tribe certificate for its scrutiny and issuance of validity to it to the respondent-Committee. However, by the order passed on 06.02.2014, respondent-Committee rejected her claim and refused to grant validity to the tribe certificate held by the petitioner. Learned counsel for the petitioner submits that the only ground on which the consistent entries as 'Mana' in the documents of relatives from the paternal family of the petitioner were disbelieved was that the word 'Mana' was not exclusively indicative of 'Mana' tribe and that there are also other non-tribe communities known as Mana, Badawaik Mana, Khand Mana, Kshatriya Mana, Kunbi Mana, Mani/Mane etc. which are not tribe communities. He submits that the ground so taken by the Scrutiny Committee is not sustainable in law in view of the judgment in the case of *Gajanan Pandurang Shende Vs. Head Master, Govt. Ashram School, Dongargaon Salod and ors.* reported in 2018(2) Mh.L.J. 460.

4. Learned Addl.G.P submits that an appropriate order will have to be passed by this Court in view of the law so laid down in the case of *Gajanan Pandurang Shende Vs. Head Master, Govt.Ashram School, Dongargaon Salod and ors. (supra)*.

5. It is seen from the impugned order that the respondent-Committee rejected the tribe claim of the petitioner on the ground that all the entries for 'Mana' consistently appearing in the various documents including the oldest document of the year 1920-23 of the great great grandfather of the petitioner and other relatives from the paternal side were not sufficient to prove the tribe claim of the petitioner as there were several other communities such as Mana, Badawaik Mana, Khand Mana, Kshatriya Mana, Kunbi Mana, Mani/Mane etc. which are non-tribe communities. These observations of the scrutiny committee are completely against the law laid down by this Court in the case of *Gajanan Pandurang Shende Vs. Head Master, Govt.Ashram School, Dongargaon Salod and ors (supra)*. In this case, it has been held that it is the entire 'Mana' community all over the State which has been conferred with the status of a recognised scheduled tribe in

the State by the Constitution (Scheduled Tribes) Order and reference to 'Mana' community appears at Sr. No.18. It has also been held that once Mana community is included in entry No.18 of the Constitution (Scheduled Tribes) Order, it has to be read as it is representing a class of 'Mana' as a whole and it is not permissible either for the Executive or for the Scrutiny Committee to artificially sub-divide or sub-classify 'Mana' community as one having different groups, like 'Badwaik Mana, Khand Mana' etc. The relevant observations of the Division Bench as appearing in paragraph No.18 and 19 are reproduced as under.

“18. Applying the law laid down in E.V. Chinnaiah's case, it has to be held in the facts of the present that once it is clear that 'Mana' community is included in entry No.18 of the Constitution (Scheduled Tribes) Order, it has to be read as it is, representing a class of 'Mana' as a whole and it is not permissible either for the Executive or for the Scrutiny Committee to artificially sub-divide or sub-classify 'Mana' community as one having different groups, like 'Badwaik Mana', 'Khand Mana', 'Kshatriya Mana', 'Kunbi Mana', 'Maratha Mana', 'Gond Mana', 'Mani/ Mane', etc., for the purposes of grant of benefits available to a recognized Scheduled Tribe. To exclude such persons from the entry 'Mana', to be recognized as Scheduled Tribe, amounts to interference, re-arrangement, re-grouping or re-classifying the caste 'Mana', found in the

Presidential Order and would be violative not only of [Article 342](#), but also of [Article 14](#) of the Constitution of India. The classification of entry 'Mana' in different categories, like 'Badwaik Mana', 'Khand Mana', 'Kshatriya Mana', 'Kunbi Mana', 'Maratha Mana', 'Gond Mana', 'Mani'/'Mane', etc., for the purpose of conferring a status as a recognized Scheduled Tribe is artificial and without any authority. The Committee has, therefore, committed an error in rejecting the claim by holding that the documents produced simply indicate the caste 'Mana' and not 'Mana, Scheduled Tribe'.

19. In our view, the concept of recognized Scheduled Tribe for the purposes of giving benefits and concessions was not prevailing prior to 1950 and, therefore, only caste or community to which a person belonged was stated in the birth, school and revenue records maintained. The documents are issued in the printed format, which contains a column under the heading 'Caste' and there is no column of tribe. Irrespective of the fact that it is a tribe, the name of tribe is shown in column of caste. While entering the name, the distinction between caste and tribe is ignored. It is the entire 'Mana' community all over the State, which is conferred a status of a recognized Scheduled Tribe in the State. The entry 'Mana' at serial No.18 in the Constitution (Scheduled Tribes) Order has, therefore, to be read as it is and no evidence can be led to exclude certain communities of 'Mana' from granting protection or benefits. The finding of the Committee to that extent cannot, therefore, be sustained”.

6. In view of above, we find that the ground taken by the Scrutiny Committee, to reject the tribe claim of the petitioner

is contrary to the law laid down by this Court in the case of *Gajanan Pandurang Shende Vs. Head Master, Govt. Ashram School, Dongargaon Salod and ors (supra)*. We further, find that all the entries of 'Mana' appearing in the various documents of the paternal relatives of the petitioner, which have been found to be genuine including the one of the year 1920 and 1923 being consistent on the aspect of these relatives as belonging to 'Mana' community, would have to be accepted as affording a credible evidence for proving the tribe claim of the petitioner as she belonging to 'Mana' scheduled tribe. The impugned order therefore, deserves to be quashed and set aside by allowing the petition.

7. The Writ Petition is allowed. The impugned order is hereby quashed and set aside. The respondent is directed to issue validity certificate to the petitioner as she belonging to 'Mana' scheduled tribe at the earliest and preferably latest by 10th December 2021. This is because of the fact that the petitioner is desirous to take admission to B.Ed course on the strength of the validity certificate and the last date of submission of the same is

13th December 2021. Rule is made absolute in the above terms.

No costs.

8. Authenticated copy of this judgment be furnished to both the sides.

(ANIL L.PANSARE, J)

(SUNIL B. SHUKRE,J)