

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

WRIT PETITION NO. 4199 OF 2015

PETITIONERS :-

1. Wasudeo Mahadeo Nannawar, age 58 years, Occupation Retired, At Post Asala Tq. Warora, District - Chandrapur, Maharashtra.
2. Anurag Wasudeo Nannaware, age 24 years, Occupation Education, At Post Asala, Tq.Warora District, Chandrapur, Maharashtra.
3. Anamol Wasudeo Nannaware, age 20 years, occupation-Education, At Post Asala Tq.Warora, District Chandrapur, Maharashtra.

...VERSUS...

RESPONDENT :-

1. Government of Maharashtra, through its Principal Secretary, Tribal Development Department, Mantralay Extension, Madam Kama Road, Mumbai-400032.
2. Sub Divisional Officer, Warora, District Chandrapur.
3. Addl. Principal Chief Conservator of Forest, Human Resource Management and Administration, Maharashtra State, Nagpur District Nagpur.
4. Principal Chief Conservator of Forest, Maharashtra State, 'Vanbhavan' Civil Lines, Nagpur, District Nagpur.

5. The Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli, Through its Member Secretary, Gadchiroli-442605.

**Dismissed in
default against
Respondent
Nos.6 to 8.**

6. Project Officer, Tribal Development Department, Giripeth Amravati Road, Nagpur.

7. Principal, Dr. Ambedkar Institute of Management Studies and Research, Diksha Bhoomi, Nagpur.

8. Registrar, RTM, Nagpur University, Nagpur.

Mr.T.Rahul, counsel for the petitioners.
Mr.K.L.Dharmadhikari, AGP for the respondent-State.

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

DATE : 09.12.2021.

ORAL JUDGMENT (Per : Anil L. Pansare, J.)

Heard.

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

3. The petitioners claim themselves to be belonging to 'Mana' Scheduled Tribe. Petitioner Nos.2 and 3 are the sons of

petitioner No.1. They had submitted their tribe certificates for its scrutiny and issuance of validity to it to the respondent-Committee. However, by the order passed on 05/05/2014. respondent-Committee rejected their claims and refused to grant validity to the tribe certificate held by the petitioners.

4. Learned counsel for the petitioners submits that the only ground on which the consistent entries as 'Mana' in the documents of relatives from the paternal family of the petitioners 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.*

5. Learned AGP 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)*.

6. It is seen from the impugned order that the respondent-Committee rejected the tribe claim of the petitioners on the ground that all the entries for 'Mana' consistently appearing in the various documents including the oldest document of the year 1945 of the uncle of petitioner No.1 and other relatives from the paternal side were not sufficient to prove the tribe claim of the petitioners 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 Nos.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”.

7. Petitioners have relied upon a judgment of the coordinate Bench of this Court in the case of *Narayan Dinbaji Jambhule and others Vs. The Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli and ors.* in *PIL No. 102 of 2013* wherein emphasis has been given on pre-constitution documents in the following words:

..... “Since, in the Judgment in the case of Anand Katole (supra), Their Lordships of the Apex Court in unequivocal terms have held that if a candidate possesses pre-constitutional documents showing him to be belonging to a particular tribe,

then such documents would have more probative value and the candidate would be entitled to grant of Validity Certificate. However, all these must precede the Vigilance Cell and home inquiry. If, in the Vigilance Cell and home inquiry, any contra material is found, then the Committee can always take the same into consideration.

However, in spite of there being voluminous documents prior to the presidential order being promulgated showing the caste/tribe to be 'Mana', denying Validity Certificate to such candidates on the ground that the documents does not mention the caste/tribe as 'Mana' Scheduled Tribe, in our view, is nothing but an attempt to deny the benefit of validity to the deserving candidates. By no stretch of imagination, the fore-fathers of the candidates in the years 1920 or 1921 would have imagined that after 30 years the presidential order would be promulgated and they would be described as Scheduled tribe and therefore, they should write Scheduled Tribe after their particular Tribe/Caste.”

8. In view of above, we find that the ground taken by the Scrutiny Committee, to reject the tribe claim of the petitioners 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)* so also *Narayan Dinbaji Jambhule and others Vs. The Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli and ors. (supra)*. We further, find that all the entries of 'Mana' appearing in the various documents of the

paternal relatives of the petitioners, which have been found to be genuine including the one of the year 1945 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 petitioners as they belonging to 'Mana' scheduled tribe. The impugned order therefore, deserves to be quashed and set aside by allowing the petition.

9. The writ petition is allowed. The impugned order is hereby quashed and set aside. The respondent-Scrutiny Committee is directed to issue validity certificate to the petitioners as they belonging to 'Mana' scheduled tribe within two weeks from the date of the order.

10. Rule is made absolute in the above terms. No costs.

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

(ANIL L.PANSARE, J)

(SUNIL B. SHUKRE, J)