

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

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WRIT PETITION NO. 6216/2019

* Mayur Gajanan Dadmal
Aged minor, Through his mother
Mrs. Gaurabai w/o Gajanan Dadmal
Aged about 39 years, occu: Household
R/o Plot No. 59, Hudkeshwar (Bk)
Pipla, Nagpur-34.

..PETITIONER

v e r s u s

1) The Scheduled Tribe Caste
Certificate Scrutiny Committee
Nagpur :Through its Vice-president
and Member-Secretary
Office at Giripeth, Nagpur
Dist. Nagpur.

2) K.D.K. Nagpur Polytechnic College
Great Nag Road
St. Jagnade Square
Nandanwan, Nagpur
Through its Principal

3) Sub-Divisional Officer
Umred, Dist. Nagpur.

.. RESPONDENTS

.....
Mr Ananta Ramteke, Advocate for petitioner
Mr. Neeraj Patil, AGP for respondent nos.1 and 3
Respondent no. 2 served -
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CORAM: SUNIL B. SHUKRE &
ANIL L. PANSARE, JJ
DATED : 4th December, 2021.

ORAL JUDGMENT: (PER SUNIL B.SHUKRE, J.)

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of respective parties.
2. Here is a case wherein the pre-Constitutional entries in relation to paternal ancestors of the petitioner showing them as “Mana” are not in dispute. Entries are of the date 10.04.1942 and also of the years 1912 to 1917. These entries, having a greater probative value and require their acceptance, especially when the vigilance enquiry casts no doubt upon their genuineness. This is also the law laid down by the Hon’ble Apex Court, in the case of Anand vs. Committee for Scrutiny and Verification of Tribe Claims, reported in 2011(6) ALL MR 919 (SC). It appears that this settled position of law has been ignored by the Respondent no.1-Committee and the doubt which was not there in respect of the pre-Constitutional entries was created simply by making a reference to 1966 entry in the name of Matu Ramaji Dadmal, paternal aunt of the petitioner showing her social status to be of ‘Mani’. Since this was a post-Constitutional entry, not much reliance could have been placed upon it by the respondent no.1- Committee, keeping aside the settled position of law as explained earlier. Even otherwise, in the case of Gitesh Ghormare vs. The Scheduled Tribe Certificate Scrutiny Committee, reported in 2018(5) ALL MR 780, a coordinate Bench of this Court has referred to Anthropological Survey of India, styled as

'People of India' (Maharashtra), Volume XXX, Part Two', to propound that the caste 'Mana' is also known as 'Mane' or 'Mani'. The Bench has also referred to the Government Resolution dated 24.04.1985 which highlights the fact that "Mana" is known as "Mane" and "Mani".

3. By referring to such reliable material, the Division bench concluded that it is of no significance that the community is described as 'Mana', 'Mani', 'Mane' or 'Mannya'. The relevant observations of the Bench as they appear in paragraph 18 of the judgment are reproduced hereunder, for the sake of convenience:-

"18. In the publication of Anthropological Survey of India, styled as 'People of India (Maharashtra), Volume XXX, Part Two', it is stated that the caste 'Mana' is also known as 'Mane' or 'Mani'. It is stated that etymologically, the word 'Mana' was probably derived from the word 'Mannya' or 'Mann' i.e. honour, which the community held in high esteem. The Government Resolution dated 24.04.1985 also highlights the position that 'Mana' is known as 'Mane', 'Mani'. The Committee also does not dispute such position. It is neither the finding recorded by the Scrutiny Committee nor the fact that any separate caste or tribe or sub-caste/tribe as 'Mane' 'Mani' or 'Mannya' exists in the State of Maharashtra. Such castes/tribes are also not shown in the list of Vimukta Jatis, Nomadic Tribes, Other Backward Classes or Special Backward Classes

maintained by the State Government. It is, therefore, of no significance that the community is described as 'Mana', 'Mani', 'Mane' or 'Mannya' and the entries have to be treated as that of 'Mana'. The Committee has, therefore, erred in relying upon the entries of 'Mane' and 'Mani' to reject the claim."

4. The Division Bench in the same judgment has also held that while construing the import and effect of pre-Constitution documents which are produced in support of tribe claim, it is important to note that during the period which was prior to framing of the Constitution there being no reservation provided for any tribe and there being no community declared as Scheduled Tribe, the reference to all these Tribes and different communities was only under the generic category of "caste". Such being the position obtaining before framing of the Constitution of India, the documents containing a column of caste has to be appropriately construed.

5. In the present case, the petitioner claims to belong to 'Mana' a tribe which is included in the schedule to the Constitutional Order, 1950 and, thus, is eligible for claiming reservation benefits. It is not in dispute that there is no caste which goes by the nomenclature of 'Mana' and, therefore, the entries of 'Mana' taken in the pre-

Constitutional documents produced by the petitioner before the respondent no.1- Committee and which are found to be genuine by the Vigilance Officer are required to be understood only as referring to the tribe 'Mana' which has been declared later to be a Scheduled Tribe eligible for various social benefits.

6. We find that all these aspects have not been considered appropriately by the respondent no.1-Committee and as a result an erroneous order came to be passed, which cannot stand to the scrutiny of law. The pre-Constitution documentary evidence being convincing in nature, the Scrutiny Committee ought to have issued validity certificate in favour of the petitioner, but unfortunately that did not occur.

7. In the circumstances, we find that this petition deserves to be allowed. The Writ Petition is allowed. The impugned order is hereby quashed and set aside. The Respondent no.1-Scrutiny Committee is directed to issue validity certificate in favour of the petitioner as belonging to 'Mana' Scheduled Tribe, at the earliest. We urge the respondent no.1-Committee to make an endeavour to issue validity certificate by the evening of 5th December,2021 and if it is done, it would enable the petitioner to pursue his academic goal to be an Engineer.

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

sahare

JUDGE

JUDGE