

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

WRIT PETITION NO.5175/2018

Sakshi D/o Shrikant Katkar,
aged about 17 Yrs., Occ. Student,
through Natural Guardian Father
Shri Shrikant S/o Natthuji Katkar,
aged about 54 Yrs., Occ. Labour,
R/o Dhantoli, Katol.

..Petitioner.

..Vs..

1. The Vice-Chairman / Member,
Secretary, Scheduled Tribe Caste
Certificate Scrutiny Committee,
Adiwasi Vikas Bhavan, Giripeth,
Nagpur.
2. The Principal, Dadasaheb Balpande
College of Pharmacy, Nagpur.
3. The Vice-Chancellor / Registrar,
Rashtrasant Tukadoji Maharaj
Nagpur University, Nagpur.
4. The Directorate of Medical
Education & Research, Maharashtra
State, Mantralaya, Mumbai - 32.
5. Dr. (Mrs.) Ujwala Mahajan,
Principal, Dadasaheb Balpande College
of Pharmacy, Near Swami Samarth Dham
Mandir, Besa, Nagpur.

..Respondents.

Ms Himani Kavi, Advocate h/f Ms PD. Rane, Advocate for the petitioner.
Mr. D.P. Thakare, Additional Government Pleader for respondent Nos.1 & 4.
Mr. S.M. Bhagde, Advocate for respondent No.3.
Mr. A.C. Jaltare, Advocate for respondent No.5.

CORAM :- SUNIL B. SHUKRE AND
ANIL L. PANSARE, JJ.
DATED :- 9.12.2021.

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

Heard. **Rule.** Rule made returnable forthwith. Heard finally by consent.

2. It is seen from the impugned order that there is an oldest document of the year 1913, which is an extract of school admission register in the name of Natthu Raghunath, the grand-father of the petitioner which has entry as Mana Tribe indicating that Natthu Raghunath belonged to Mana community. This oldest entry, has not been properly considered and appreciated by the Scrutiny Committee, especially when there were several entries in the later years which consistently showed the social status of the parental relatives of the petitioner as Mana. It is also seen that Scrutiny Committee in order to reject the claim of the petitioner that she belongs to Mana Scheduled Tribe selectively picked a few entries which were in such names as Kunbi and Mani and placed undue emphasis upon them although the fact was that all these different entries were of the subsequent years than the oldest entry of 1913. The approach so adopted by the

Scrutiny Committee appears to be not a fair one. If the Scrutiny Committee has to consider the documentary evidence, it has first to evaluate all the documents by giving due importance to them and after doing so, it has to apply the law applicable to the facts of the case. The settled law would tell us that oldest entries in the documents have higher probative value and, therefore, the entry of 1913 required to be appreciated in the light of such settled law, which does not appear to be the case here.

3. Then during the pendency of this petition a significant event having far-reaching effect on the claim of the petitioner has taken place. Cousin of the petitioner, Pallavi Harish Katkar, has been issued validity certificate on 15th June, 2019 indicating that her social status is that of Mana Scheduled Tribe. Name of Pallavi appears in the family tree submitted by the petitioner before the Scrutiny Committee. Now, the question is if one of the members of paternal family of the petitioner has been granted validity certificate by the Scrutiny Committee, can the same Scrutiny Committee invalidate the caste claim of the petitioner and in our view, it would be too adventurous for the Scrutiny Committee to say that two persons of the same paternal family would continue to have different and distinct social status, one a non-tribal and the other a tribal. Therefore, now it

has become necessary for the Scrutiny Committee to re-examine the tribe claim of the petitioner in the light of the validity that it has chosen to grant subsequently to another paternal family member of the petitioner.

4. In the result, we are inclined to partly allow the petition and it is allowed accordingly.

(i) The impugned order is quashed and set aside.

(ii) The matter is remanded back to the Scrutiny Committee for fresh enquiry and its decision, in accordance with law, after giving due opportunity of hearing to the petitioner.

(iii) The Scrutiny Committee shall endeavour to decide the claim of the petitioner afresh in the light of the validity granted to one of the family members subsequently as expeditiously as possible and preferably within two months from the date of appearance before the Scrutiny Committee.

(iv) The petitioner to appear before the Scrutiny Committee on 22nd December, 2021. Meanwhile, interim relief granted by this Court on 14th August, 2018 is continued till the decision of the Scrutiny Committee in terms of this order and also for further period of two weeks from the date of the decision, if the decision goes against the

petitioner.

(v) Personal presence of respondent No.5 is noted and she is now discharged from the requirement of appearing before this Court personally.

(vi) Rule is made absolute in the above terms. No costs.

JUDGE

JUDGE

Tambaskar.