

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

WRIT PETITION NO. 3828 OF 2021

PETITIONERS :-

1. Miss.Pradnya Balaji Gaikwad, aged 23 yrs, occup. Student.
2. Mr.Suraj Balaji Gaikwad, aged 21 years, occup. Student,

Both r/o Shriram Nagar, Near Govt. Hospital, Bhadrawati, Tah.Bhadawari, district Chandrapur.

...VERSUS...

RESPONDENTS :-

1. Vice President and Member Secretary, The Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli, Complex Area near Z.P. School, Gadchiroli, Dist. Gadchiroli.
2. The Sub-Divisional, Commissioner Warora, District Chandrapur.

Mr.Ananta Ramteke, counsel for the petitioners.
Mr.N.R.Patil, AGP for respondent Nos.1 and 2.

**CORAM : SUNIL B.SHUKRE &
SMT. M.S.JAWALKAR JJ.**

DATE : 28.04.2022.

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 petitioners are claiming to be belonging to Mana Scheduled Tribe, but their claim has been invalidated by the Scrutiny Committee i.e. respondent No.1, which disbelieved the documentary evidence produced on record by the petitioners and which found that the petitioners failed to answer satisfactorily the affinity test. Amongst the documentary evidence submitted by the petitioners, two documents were of great significance. They were the validity certificates issued to Deorao Ramhari Gaikwad and Ajay Vithhal Gaikwad, both cousin uncles of the petitioners from paternal side. Insofar as their relationship with the petitioners by consanguinity is concerned, there is no dispute. But, the Committee ignored these documents on the ground that they were issued without obtaining any vigilance inquiry report. Rejection by the Scrutiny Committee on such a ground, in our view, is not permissible, if we take into consideration the background against which both these validities came to be issued to Deorao Gaikwad and Ajay Gaikwad.

Both these validities have been issued on the basis of the decision rendered by the Hon'ble Supreme Court in Civil Application No.5270 of 2004. Once, the Hon'ble Apex Court of this land directs the Scrutiny Committee, to issue a certificate of validity to the claimant, the direction is binding not only upon that authority, but also upon all those authorities, which may have an occasion to consider the compliance with these directions. Therefore, the validity certificates issued in compliance with the directions issued by the Hon'ble Apex Court were also binding upon the respondent No.1 Committee and it was not open to the respondent No.1 Committee to question the correctness of these validity certificates only on the ground that they were issued without there being any vigilance inquiry report. Questioning the correctness of the said validity certificates on the said ground amounts, in effect, to non-compliance with the directions given by the Hon'ble Supreme Court, which is not permissible in law. This view has also been reiterated by this Court in the recent judgment of a Co-ordinate Bench of this Court at Mumbai in the case of **Bharat Bhagwant Tayade Vs. State of Maharashtra** in Writ Petition No.11617 of 2017 decided on 15.03.2022, to which one of us was

the part.

4. Thus, we find that there was no reason for the Scrutiny Committee to have rejected the validity certificates granted to Deorao Gaikwad and Ajay Gaikwad and they ought to have been accepted as conclusive proof of status of the petitioners as they belonging to Mana Scheduled Tribe. Considering these two validity certificates, we find that petitioners have reasonably proved their claim as belonging to Mana Scheduled Tribe.

5. In the result, we find that this Writ Petition deserves to be allowed and it is allowed accordingly. The impugned order is hereby quashed and set aside.

6. Respondent No.1 is directed to issue validity certificates to both the petitioners that they belonging to Mana Scheduled Tribe within a period of four weeks from the date of receipt of the copy of the order.

7. Rule is made absolute in above terms. No order as to costs.

JUDGE

JUDGE

Kavita
Signed By: KAVITA PRAVIN
TAYADE
P. A.

Signing Date: 30.04.2022 11:31