

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

WRIT PETITION NO.1517 OF 2015

Mayuri Suresh Narnaware (aged 19 yrs),
(Occupation : Student – D. Pharm. Final)
Address: “Laxmanrao Deshmukh” Layout,
Behind College Quarters, Katol
(Dist. Nagpur) 441302

... Petitioner

-vs-

1. The Scheduled Tribe Certificate Scrutiny Committee,
Nagpur, Through its Member Secretary,
Adiwasi Bhavan, Giripeth, Nagpur 440010
2. State of Maharashtra
Through its Principal Secretary,
Tribal Development Department,
Mantralay Extension, Madam Cama Road,
Mumbai 400 032
3. Directorate of Technical Education,
Maharashtra State, Through its
Regional Directorate,
Joint Director, Technical Education
Regional Office, Govt. Polytechnic Campus,
Sadar Bazar, Nagpur 440001

... Respondents

Shri S. P. Khare, Advocate for petitioner.

Shri D. P. Thakare, Additional Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : October 07, 2022

Oral Judgment : (Per : A. S. Chandurkar, J.)

The challenge raised in this writ petition is to the order passed by the Scrutiny Committee on 21/06/2014 thereby invalidating tribe-claim of the petitioner of belonging to “Mana” (Scheduled Tribe).

The petitioner claims that she and her forefathers belong to

“Mana” (Scheduled Tribe). This claim was supported by relying upon various pre-constitutional documents especially of the years 1924 and 1926 wherein the entry “Mani” was found. After considering the report of the Vigilance Cell, the Scrutiny Committee proceeded to invalidate the tribe-claim of the petitioner on the ground that against the said entry it was not stated that the forefathers belonged to Scheduled Tribe. The aspect of area restriction was also taken into consideration. Validity Certificate granted to the petitioner’s brother was discarded on the ground that it was not preceded by any enquiry by the Vigilance Cell. The order of invalidation is under challenge in the present writ petition.

2. Shri S. P. Khare, learned counsel for the petitioner submitted that considering the old documents on record having consistent entry of “Mana/Mani”, the Scrutiny Committee ought to have given due weightage to the same. It was not the case of the Vigilance Cell that the old entries had been inserted at the behest of the petitioner’s forefathers or that they were responsible for such entries. On the aspect of affinity of “Mana” (Scheduled Tribe) it was submitted that with passage of time, a person could not be expected to follow all old customs and traditions. After considering the probative value of the old documents, the Scrutiny Committee ought to have accepted the

claim. Validity certificate was granted to the petitioner's brother and in the said validity certificate it was stated that this was after considering all documents and associated facts. Merely because there was reference to the decision of the Honouable Supreme Court in Civil Appeal No.5270/2004, the effect of the said validity certificate was not watered down. In that regard reference is made to the decisions in Writ Petition No.491/2019 (*Ku. Nayan d/o Bhaskar Chouke vs. The Scheduled Tribes Caste Scrutiny Committee, Nagpur and ors.*) dated 16/07/2021 and Writ Petition No.309/2021 (*Ku. Pallavi d/o Rajendra Dardemal vs. The Vice-Chairman/Member Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur and ors.*) dated 20/07/2022. Since validity certificate had been granted on the basis of documents available, it could not be said that for want of vigilance enquiry, the present petitioner was not entitled to benefit of the same. The learned counsel also invited attention to the decision in *Shubham Sharad Gadamade vs. Scheduled Tribe Certificate Scrutiny Committee, Nagpur and ors.* **2017 (3) Mh.L.J. 789** and submitted that by following the law as laid down in *Apoorva d/o Vinay Nichale vs. Divisional Caste Scrutiny Committee No.1 and ors.* **2010 (6) Mh.L.J. 401**, the order passed by the Scrutiny Committee was liable to be set aside.

3. Shri D. P. Thakare, learned Additional Government Pleader for

respondent No.1 at the outset sought time to file return on record. We however find that the writ petition was admitted in the year 2015 and there was sufficient time to file such reply thereafter. We therefore have not accepted such request made on behalf of the respondents.

The learned Additional Government Pleader supported the order passed by the Scrutiny Committee. According to him after considering all relevant documents the claim has been invalidated. Validity Certificate granted to the petitioner's brother was without any vigilance enquiry and therefore such enquiry conducted in the present case ought not to be given due weightage. Since the claim has been dis-allowed after considering all documents on record, there was no reason to interfere with the said adjudication.

4. We have heard the learned counsel for the parties and we have perused the documents on record. Insofar as the report of the Vigilance Cell is concerned, it has found that the entries of the years 1924 and 1926 have remark "Mani". The effect of the entry "Mani" has been considered by the Division Bench in *Gitesh s/o Narendra Ghormare vs. Scheduled Tribe Certificate Scrutiny Committee Nagpur and ors.* **2018(4) Mh.L.J. 933** wherein this Court has held that merely because the old documents show the entry "Mani" that will not be a factor to hold against the said documents. The entry "Mani" is stated

to be similar as to “Mana” for such purposes. This aspect has been considered in *Pallavi d/o Rajendra Dardemal* (supra). The order of invalidation on that count is liable to be interfered with.

5. It is to be noted that the petitioner’s brother has been issued validity certificate by the Scrutiny Committee on 29/03/2008. Validity Certificates have also been issued to the petitioner’s cousin and other members of the larger family. In the validity certificate issued to the petitioner’s brother, it has been stated that same has been done after considering the documents and associated facts. This aspect has been considered in *Ku. Nayan d/o Bhaskar Chouke* (supra) wherein the effect of similar validity certificates granted in terms of the directions of the Honourable Supreme Court in Civil Appeal No.5270/2004 wherein it was held that such validity certificate having been issued by the Scrutiny Committee after recording its satisfaction, there was no reason to discard it, has been considered. It was further observed that there was nothing on record that showed that while granting the earlier validity certificate, the Scrutiny Committee has not recorded its satisfaction regarding the sufficiency of documentary evidence. Hence the said validity certificate will have to be given its due weightage. In *Apoorva Vinay Nichale* (supra) it has been held that validity certificate granted to a blood relative cannot be ignored and

other family members are entitled to seek benefit of the same unless it is shown that such validity certificate was obtained by fraud. That aspect is missing in the present case.

6. We find that the Scrutiny Committee has erred in not considering the old documents and giving due weightage to the same. The effect of validity certificate granted to the petitioner's brother has also not been taken into consideration. We therefore find that the impugned order is not sustainable and the petitioner is entitled for declaration of her tribe-claim.

7. Hence for aforesaid reasons, the following order is passed.

- (i) The order passed by the Scrutiny Committee on 21/06/2014 is set aside.
- (ii) It is declared that the petitioner has proved that she belongs to "Mana" (Scheduled Tribe) which is entry No.44 in The Scheduled Tribes Order, 1950.
- (iii) The Scrutiny Committee shall within a period of four weeks of receiving copy of this judgment issue validity certificate to the petitioner.
- (iv) Rule is made absolute in aforesaid terms with no order as to costs.