

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

WRIT PETITION NO. 4372/2016

1. Damodar Mangre,
Aged about 51 years, Occ. Service.
2. Suhas Damodar Mangre,
Aged about 30 years, Occ. Service.
3. Milind S/o Damodar Mangre,
Aged about 22 years, Occ. Student.

Both R/o Mahaveer Nagar, Darwah Road, Yavatmal.

PETITIONER

.....VERSUS.....

1. The State of Maharashtra,
through its Secretary, Tribal Welfare Department,
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Caste Certificate Scrutiny
Committee, Irwin Chowk, Amravati Division,
Amravati. Through its Member.

RESPONDENTS

Ms Himani Kavi with Ms P.D. Rane, counsel for the petitioners.
Shri D.P. Thakare, Additional Government Pleader for the respondents.

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

DATE : 05TH AUGUST, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

The challenge raised in this writ petition is to the order dated 30.10.2014 passed by the Scrutiny Committee by which the tribe claim of the petitioners of belonging to 'Mana' Scheduled Tribe has been invalidated.

2. The learned counsel for the petitioners submitted that the petitioners had relied upon various pre-Constitutional documents with the

entries 'Mana' and 'Mani' to substantiate their claim of belonging to 'Mana' Scheduled Tribe. Those documents were of the years 1913, 1917, 1922 and 1927. Though the Vigilance Cell verified the aforesaid old documents and certified that the same were genuine the claim of the petitioners has been disallowed without furnishing any justifiable reason. With passage of time, it was always likely that the present generation would not be aware of various traits of the community and it could not be expected that they had full knowledge of the same. Placing reliance on the decisions in *Gajanan Pandurang Shende Versus Head-Master, Govt. Ashram School, Dongargaon Salod & Others* [2018(2) Mh.L.J. 460] and *Gitesh Narendra Ghormare Versus Scheduled Tribe Certificate Scrutiny Committee, Nagpur & Others* [2018(4) Mh.L.J. 933], it was submitted that the claim as made by the petitioners was liable to be upheld in view of the law laid down therein. It was thus submitted that the impugned order was liable to be set aside and the validity certificate ought to be issued to the petitioners.

3. The learned Additional Government Pleader for the respondents opposed aforesaid submissions and relied upon the findings recorded in the impugned order. He submitted that though pre-Constitutional documents were available with the petitioners they could not show their affinity with 'Mana' Scheduled Tribe. After considering

the entire material on record the claim had been invalidated. Hence no interference with the impugned order was called for.

4. With the assistance of the learned counsel for the parties we have perused various pre-Constitutional documents that were relied upon by the petitioners. The same pertained to the years 1913, 1917, 1922, 1923 and 1933. The Vigilance Cell in its report dated 15.04.2009 submitted to the Scrutiny Committee has clearly opined that the old entries with the word 'Mana' were found to be existing in the relevant records. This conclusion of the Vigilance Cell supports the claim of the petitioners. The Scrutiny Committee was not justified in not giving due weightage to the pre-Constitutional documents especially when the entries therein were consistent. Insofar as the entries with the word 'Mani' are concerned, the Division Bench in *Gajanan Pandurang Shende* and *Gitesh Narendra Ghormare* (supra) has considered the effect of such entries and has noted that since there was no tribe by the name 'Mani' the claim of belonging to 'Mana' Scheduled Tribe could not be disallowed on that count.

5. As regards the affinity test is concerned, the Vigilance Cell has merely referred to the practices followed by the family and has observed that the same were not sufficient to uphold the claim of the petitioners.

We find that primacy has to be given to the old and pre-Constitutional documents rather than rejecting the claim solely on the test of affinity. It is always likely that with passage of time the present generation would not be aware of old traits and customs and it is likely that the traits and customs may not be in vogue in present times. It is also not the case that the entries in the old records are synonymous with the name of any other designated tribe and that the petitioners are trying to take advantage of the same. The entry in the Scheduled Tribes Order is of the tribe 'Mana' and the old documents relied upon by the petitioners indicate the same entry. The reasons assigned by the Scrutiny Committee for invalidating the claim of the petitioners are not sufficient and hence by following the law laid down in the aforesaid two decisions relied upon by the learned counsel for the petitioners, the order passed by the Scrutiny Committee is liable to be set aside.

6. Accordingly, for the aforesaid reasons, the order passed by the Scrutiny Committee dated 30.10.2014 is set aside. It is declared that the petitioners have proved their claim of belonging to 'Mana' Scheduled Tribe. The Scrutiny Committee shall within a period of four weeks from receipt of copy of this judgment issue the validity certificate in favour of the petitioners. The petitioners are entitled for the benefits flowing from issuance of the validity certificate.

7. Rule is made absolute in aforesaid terms. No costs.

(URMILA JOSHI-PHALKE, J.)

(A.S. CHANDURKAR, J.)

APTE