

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

WRIT PETITION NO.3632/2019

- 1] Ms. Usha Murlidhar Sherkar,
Aged 36 years, Occ. Police Constable,
R/o. Plot No.24, Ujjwal Society, Gorle Layout,
Trimurti Nagar, Nagpur-400 015.
- 2] Ms. Tara Murlidhar Sherkar,
Aged 38 years, Occ. Police Constable,
R/o. Plot No.24, Ujjwal Society, Gorle Layout,
Trimurti Nagar, Nagpur-440 015. **..PETITIONERS**

...V E R S U S...

- 1] Scheduled Tribes Caste Certificate Scrutiny
Committee, through its Member Secretary,
Hyderabad House, Civil Lines, Nagpur-440 001.
- 2] The Commissioner of Police,
City, Civil Lines, Nagpur-440 001.
- 3] Superintendent of Police,
Nagpur District (Gramin), Civil Lines,
Nagpur. **..RESPONDENTS**

Shri R.S.Parsodkar, Advocate for petitioners.

Ms Mayuri Deshmukh, Assistant Government Pleader for respondents.

CORAM : A.S.CHANDURKAR and SMT. M.S.JAWALKAR, JJ.

DATE : 9th March, 2022

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The challenge raised in this writ petition is to the order passed by the Scrutiny Committee dated 25.04.2019 invalidating the claim of the petitioners of belonging to 'Mana' Scheduled Tribe.

3. Inter-alia, it is submitted that the report of the Police Vigilance Cell was not supplied to the petitioners as a result of which the petitioners could not counter the observations made therein. In addition, the petitioners seek to rely upon an old entry of the year 1912 of the great-grandfather wherein the word 'Mana' has been recorded after the name. It is submitted that though this entry was noted by the Vigilance Cell, there is no discussion in that regard. It is also the case of the petitioners that document at serial no.4 in the report of the Vigilance Cell of the year 1936 is of a person not related to the petitioners.

4. Considering the aforesaid submissions, this Court on 28.02.2022 had directed the Scrutiny Committee to produce its record for perusal. Today the said Vigilance Report has been produced. Though in the *roznama* dated 01.04.2019 there is a statement that the copy of the Vigilance Cell report was supplied to the petitioners, there is no acknowledgment to that effect.

5. There is no reply filed by the petitioners to the report of the Vigilance Cell. We find that it would be necessary for the petitioners to meet the observations in the report of the Vigilance Cell by filing appropriate reply thereto. On that ground it would be necessary to re-consider the tribe claim of the petitioners on merits.

6. Accordingly, the following order is passed :

(1) The order dated 25.04.2019 passed by the Scrutiny Committee is set aside.

(2) The Scrutiny Committee shall supply the complete report of the Vigilance Cell to the petitioners within a period of fifteen days from the receipt of copy of this

order. It is open for the petitioners to file additional documents in support of their claim as made.

(3) The petitioners shall within a period of fifteen days from receiving the Vigilance Cell report file their response thereto.

(4) The Scrutiny Committee shall decide the tribe claim of the petitioners within a period of four months from receiving the reply of the petitioners.

(5) The services of the petitioners shall remain protected till the adjudication is completed by the Scrutiny Committee.

All points on merits are kept open.

Rule is made absolute in aforesaid terms. No costs.

(SMT. M.S.JAWALKAR, J.)

(A.S.CHANDURKAR, J.)

Andurkar..