

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

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WRIT PETITION NO. 3837 /2013

* Aishwarya D/o Madhukar Sonwane
Aged about 18 years, occu: student
R/o Manewada-Besa Road
Sewadal Nagar, Nagpur
Tah.& Dist. Nagpur.

..Petitioner

versus

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli
Th: The Vice Chairman

2) The Directorate of Technical Education
Maharashtra State, Mumbai 400 001.

3) The Principal
Rajiv Gandhi College of Engineering
& Research, Hingna Road
Wanadongri, Nagpur 441110.

4) The Registrar
RTM University, Nagpur.

.. Respondents

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Ms. P.D. Rane, Advocate for Petitioner
Mr. M.K. Pathan, AGP for Respondents 1 and 2
Mr P.D. Meghe, Advocate for Respondent No.3

CORAM : ROHIT B. DEO &
ANIL L. PANSARE, JJ

DATED : 11th August, 2022.

ORAL JUDGMENT: (Per : ANIL L.PANSARE, J.)

Heard learned counsel for the parties.

2. The claim of the petitioner as belonging to “Mana” Scheduled Tribe, has been rejected by the Respondent No.1-Scrutiny Committee vide order dated 11th June, 2013.

3. Having heard both the sides and having considered the documents placed before us, we find that the Respondent No.1-Committee has ignored the validity certificates issued in favour of the father and the brother of the petitioner. The validity certificate as belonging to “Mana” Scheduled Tribe in favour of her father, namely, Madhukar Tulshiram Sonwane has been issued on 9th October 2006, while the validity in favour of her brother, namely, Gaurav Madhukar Sonwane was issued on 30th July 2017. The Respondent No.1-Committee, despite noticing the above two validities and further noticing that the caste of the petitioner and her forefathers is consistently recorded as ‘Mana’ in their school as well as revenue records during the period between 1946 to 2000, invalidated the tribe claim of the petitioner on the count that the validity certificates have been issued without conducting vigilance enquiry and without considering the affinity test. The Committee, however, has not reopened the cases of the father and

brother of the petitioner. Such a stand taken by the Committee is unsustainable in law. If the same is to be accepted it will create anomaly in the family. The father and brother of the petitioner will get the benefits of social status available to Scheduled Tribes, whereas the petitioner will be deprived of such benefits.

4. The Committee ought to be mindful of the fact that the tribe validity certificate granted to a person is a conclusive proof of his/her social status. The document confirming the social status of a person would also be a proof of social status of his real blood relatives unless it is shown that the person possessing validity has obtained the same by fraud, misrepresentation or suppression of facts.

5. In the case of Apoorva Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others¹, the Division bench of this Court has taken a view that when during the course of enquiry a candidate submits a caste validity certificate granted earlier certifying that blood relative of the candidate belongs to the same caste as that claimed by the applicant, the Committee shall grant such certificate without calling for vigilance cell report. It is further held that if the Committee finds that the earlier caste certificate is tainted by fraud or is granted without

¹ 2010(6) Mh.L.J. 401

jurisdiction, the Committee may refuse to grant certificate to the applicant before it.

6. We do not find any reason to take a different view in the matter. The father and brother of the petitioner hold validity certificates. It is nobody's case that the said certificates have been obtained by fraud or misrepresentation. In the circumstances, the Committee ought to have granted validity certificate in favour of the petitioner. The vigilance cell enquiry or affinity test would not be decisive in such cases.

7. Hence, we hold that the Committee has fallen in a serious error in refusing to issue validity certificate in favour of the petitioner.

8. In the result, the Writ Petition is allowed. It is declared that the petitioner belongs to 'Mana' Scheduled Tribe. The Respondent No.1-Committee, within a period of four weeks from the date of receipt the copy of this order, shall issue validity certificate in favour of the petitioner.

9. Rule is made absolute in the aforesaid terms. No costs.

[ANIL L. PANSARE,J.]

[ROHIT B. DEO,J.]

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