

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

WRIT PETITION NO.2966 OF 2020

Nalini wd/o Shravan Jivtode,  
Aged about 50 year,  
Occupation : Household,  
R/o Nutan Co-operative Housing  
Society Limited, A-wing, 3<sup>rd</sup> Floor,  
Room No.20, Hanuman Nagar,  
Katemanivali, Kalyan (East),  
District : Thane 421306

...Petitioner

-vs-

1. The Vice-Chairman/Member/Secretary,  
Scheduled Tribe Caste Certificate Scrutiny  
Committee, Gadchiroli
2. The Deputy Superintendent of Garden (Z-III),  
Office situated at K/East Ward,  
Office 4<sup>th</sup> Floor, Garden Department,  
Azad Road, Gundavali, Andheri (East),  
Mumbai 400 069

... Respondents

Ms Preeti Rane, Advocate for petitioner.  
Shri D. P. Thakare, Additional Government Pleader for respondent No. 1  
Shri D. M. Surjuse, Advocate for respondent No.2.

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

**DATE : July 28, 2022**

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

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

The husband of the petitioner was employed as a Labour  
with the respondent No.2-Municipal Corporation, Mumbai in its

Garden Department. He was appointed on 31/10/1996 and he was subsequently promoted on 28/10/1999 to the post of Mali. On 12/09/2002 the employer forwarded the proposal of the tribe-claim of the petitioner's husband for verification to the Scrutiny Committee since it was his claim that he belonged to 'Mana' (Scheduled Tribe). Accordingly process was undertaken but the matter did not progress. Ultimately on 15/01/2019 a fresh proposal was forwarded to the Scrutiny Committee for verification. When this proposal was pending, the petitioner's husband expired on 09/04/2019. Consequently, the Scrutiny Committee which had commenced the vigilance enquiry dropped the said proceedings on account of death of the original claimant. Since no validity certificate was produced before the employer, it refused to release the pensionary benefits including the amount of family pension. This was informed to the petitioner on 04/02/2020 and hence being aggrieved, the petitioner has filed the present writ petition.

It is prayed that the proceedings pending before the Scrutiny Committee be directed to be re-opened for being determined in the light of grant of validity certificate to various blood relatives. The petitioner also seeks a direction for release of retiral benefits.

2. Ms P. Rane, the learned counsel for the petitioner submitted that the process for validation had been undertaken but the same could not be completed for no fault of the petitioner. While the vigilance enquiry was being conducted, the claimant had expired. However, there were validity certificates granted to various blood relatives and hence the petitioner's deceased husband could also be declared to belong to 'Mana' Scheduled Tribe. In that regard attention is invited to the family-tree and the fact that the nephew of the petitioner's husband, Krunal was issued validity certificate on 28/01/2013. Similarly his nieces were also issued similar validity certificates on 17/10/2005, 31/10/2006 and 02/11/2006. In the information about the family collected by the Vigilance Cell while verifying the tribe-claim of Krunal Suryakant Jivtode, the name of the petitioner's husband-Shravan was also mentioned. It was thus clear that there was no dispute with regard to the relationship of the petitioner's husband with those who had been issued validity certificates. Placing reliance on the decisions in *Sunita w/o Late Pradip Thakar vs. State of Maharashtra and ors.* **2022(1) Mh.L.J. 219** and in Writ Petition No.11673/2019 (*Gayatri w/o Late Ganesh Vitthal Thakur vs. the State of Maharashtra and ors.*) dated 29/09/2021 to submit that appropriate directions be issued upholding the tribe-claim of the petitioner's husband of belonging to 'Mana' (Scheduled Tribe) so as to facilitate

release of retiral benefits.

3. Shri D. P. Thakare, learned Additional Government Pleader for the respondent No.1 submitted that the validation proceedings could not be completed on account of death of the claimant. He however did not raise any dispute with regard to issuance of validity certificates to various blood relatives.

Shri D. M. Surjuse, the learned counsel for respondent No.2 referred to the Government Resolution dated 25/05/2021 to submit that in absence of validity certificate only the amount of provident fund could be released. The other benefits could be released only if the concerned employee had a validity certificate.

4. Having considered the submissions of the learned counsel for the parties, it becomes clear that during the process of verification of the petitioner's husband's tribe-claim, he expired. In the vigilance enquiry a statement of his brother Suryakant was recorded. If the vigilance enquiry report prepared by the Vigilance Cell while verifying the tribe-claim of the petitioner's husband's nephew-Krunal is perused, the same indicates that said Suryakant is the father of Krunal and the brother of the deceased. The relationship inter-se is thus established. In addition there are three more validity certificates issued in the larger

family of the deceased husband. It is thus clear that the petitioner would be entitled to rely upon these validity certificates for claiming similar benefit in favour of her deceased husband. Thus by following the law laid down in *Apoorva V. Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and ors.* **2010 (6) Mh.L.J. 401**, it becomes clear that the petitioner's deceased husband would be entitled to be declared as belonging to 'Mana' (Scheduled Tribe) as validity certificate has been issued by the Scrutiny Committee to his nephew.

5. Accordingly it is held that the deceased Shravan Narayan Jivtode belonged to 'Mana' (Scheduled Tribe) and the petitioner as his legally wedded wife would be entitled to receive the retiral benefits. Consequently the respondent No.2 shall release all retiral benefits of the deceased Shravan in favour of the petitioner in accordance with law if there is no other legal impediment within a period of eight weeks from receipt of copy of this judgment.

Rule is made absolute in aforesaid terms with no order as to costs.

(Urmila Joshi-Phalke, J.)

(A. S. Chandurkar, J.)