

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

WRIT PETITION NO. 3697 OF 2021

PETITIONER : Shri Jagdish Ramanand Sayamwar
Aged about 64 years, Occu: Retired,
R/o Garima Satpute Layout, Nagpur
Road, Nalwadi, Wardha, Dist-Wardha.

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

RESPONDENTS :1. The State of Maharashtra, through
its Principal Secretary, Tribal
Development Department,
Mantralaya, Mumbai-32.

2. The Scheduled Tribe Certificate
Scrutiny Committee, Nagpur
Division, Nagpur, through its Deputy
Director and Member Secretary
Having Office at Giripeth, Amravati
Road, Nagpur.

Mr. A.I. Sheikh, counsel for the Petitioner.
Mrs. S.S. Jachak, Additional Government Pleader for the
Respondent Nos.1 and 2.

**CORAM : DIPANKAR DATTA, CJ &
NITIN W. SAMBRE, J.**
DATE : SEPTEMBER 08, 2022

JUDGMENT (PER: NITIN W. SAMBRE, J):

1. Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

2. This petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash and set aside the order dated **24.08.2021**, passed by the respondent No.2-Scheduled Tribe Certificate Scrutiny Committee, Nagpur Division, Nagpur, by which the caste claim of the petitioner as belonging to 'Mannewar' Scheduled Tribe has been invalidated. The petitioner is also seeking a direction to the Scrutiny Committee to issue a caste validity certificate.

3. The respondent No.2 vide order dated 24-08-2021 rejected the claim of the petitioner about the 'Mannewar' caste, which is an entry at Sr. No.18 of the Constitution (Scheduled Tribes) Order, 1950. His School submitted the petitioner's tribal claim to respondent No.2-Committee for verification and issuance of validity certificate. The petitioner submitted various documents, including pre-constitutional documents, in support of his caste claim. Petitioner's caste claim was inquired into by the Police Vigilance Cell. On receipt of the said report, the Scrutiny Committee has issued a show-cause notice to the petitioner and, upon obtaining his explanation, expressed its dissatisfaction about the genuineness of the caste claim and, ultimately, by the impugned order, invalidated his caste claim.

4. Before the Committee, the petitioner filed 12 documents in support of his caste claim for 'Mannewar' Scheduled Tribe. The documents collected by the Vigilance Cell bear caste as 'Telgu Mannewar', 'Telangi', etc. The petitioner's claim is rejected on the ground that the petitioner failed to substantiate his claim by adducing documentary evidence. More so, in the documents collected by the Vigilance Cell, the caste is mentioned as 'Telgu Mannewar', 'Telangi'. The claim is also rejected by holding that the petitioner failed in affinity test.

5. We find that the petitioner has produced several pre-constitutional documents showing the 'Mannewar' caste entry. Particularly, the petitioner has produced the Death Certificate of his father Ramanand dated **02-02-1978**. This document bears the entry of the 'Mannewar' caste. Some of the old documents collected by the Vigilance Cell show the entry of caste as 'Telangi', 'Telgu Mannewar'. These entries merely indicate the language and not caste. The said issue is well covered by the decision of this Court in **Shri Suresh Kumar Balkrishna Naidu Vs. The State of Maharashtra and another**¹ decided on 04.04.2019. The documents, therefore, have to be considered as it indicates the tribe name of 'Mannewar', which is entered right from the year 1935. Apart from this, other entries after the year 1950 indicate the caste of the blood relative as 'Mannewar'.

6. So far as the affinity test is concerned, the Hon'ble Supreme Court, in the case of **Anand Vs.**

1 WP No. 4316/2017

Committee for Scrutiny and Verification of Tribe Claims and others² held that while dealing with the documentary evidence, greater reliance may be placed on pre-independence documents because they furnish a higher degree of probative value to the declaration of status of a caste compared to post-independence documents. In respect of the affinity test, the Hon'ble Apex Court has laid down that a cautious approach has to be adopted. With the migration, modernization and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match the traditional characteristics of the tribe. It holds that the affinity test may not be recorded as a litmus test for establishing the applicant's link with the Scheduled Tribe. The affinity test is to be used to corroborate the documentary evidence, and it is not to be used as the sole criteria to reject a claim. The ratio of these decisions covers the petitioner's case.

7. Therefore, we find that the Committee erred in rejecting the petitioner's claim for 'Mannewar' Scheduled Tribe. Thus, we hold that the petitioner has established his caste claim. In the result, we pass the following order:

ORDER

(i) Writ petition is allowed. Order dated **24.08.2021** passed by the Scheduled Tribe Certificate Scrutiny Committee, Nagpur Division, Nagpur, is hereby quashed and set aside.

² (2012)1SCC 113

(ii) The petitioner's claim for 'Mannewar Scheduled Tribe, which is an entry at Sr. No.18 of the Constitution (Scheduled Tribes) Order, 1950, is held to be valid. The Committee is accordingly directed to issue a Caste Validity Certificate in the petitioner's name within one month from the date of receipt of this order.

8. Rule is made absolute in aforesaid terms. No order as to costs.

(NITIN W. SAMBRE, J.)

(CHIEF JUSTICE)