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

WRIT PETITION NO.5163 OF 2013

Amol s/o Ravikant Bagde,
Aged about 18 years, occupation student,
R/o Chitegaon, tahsil Mul,
District Chandrapur. **Petitioner.**

:: VERSUS ::

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli.

2. The Director of Technical Education, Mumbai.

3. The Principal,
Shri Sai Polytechnic College, Chandrapur. **Respondents.**

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Ms Himani Kavi, Advocate h/f Ms P.D.Rane, Counsel for the Petitioner.
Mrs.K.R.Deshpande, Assistant Government Pleader for Respondent Nos.1
& 2.

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

DATE : JUNE 07, 2022

ORAL JUDGMENT (Per : A.S.Chandurkar, J.)

1. Heard the learned Advocate Ms Himani Kavi for the
petitioner and the learned Assistant Government Pleader
Mrs.K.R.Deshpande for respondent Nos.1 and 2.

2. The challenge raised in this writ petition is to the order
passed by respondent No.1-Scrutiny Committee dated 11.6.2013 thereby
invalidating the tribe claim of the petitioner of belonging to 'Mana'

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Scheduled Tribe.

3. It is the case of the petitioner that he and his forefathers belong to 'Mana' Scheduled Tribe. The petitioner on the basis of old revenue records pertaining to years 1920-1923 sought verification of his tribe claim. Besides these old entries, school records of the petitioner's grandfather and father are also relied upon. The Scrutiny Committee directed the Vigilance Cell to hold an enquiry. The Vigilance Cell noticed that in the old documents prior to 1947 pertaining to the cousin grandfather of the petitioner, there was a reference to 'Mana' in the said document. The Scrutiny Committee considered the said report of the Vigilance Cell and in paragraph No.14 of its order observed that insofar as documentary evidence was concerned, there was a consistent reference to the entry 'Mana' therein. It is further held that since words 'Scheduled Tribe' were not mentioned in those entries, the same could not be relied upon. On that basis, the claim of the petitioner was invalidated.

4. The learned Advocate for the petitioner submits that in view of the consistent old entries indicating the fact that the forefathers of the petitioner belong to 'Mana' Scheduled Tribe, the Scrutiny Committee was not justified in invalidating the tribe's claim. The old documents from the year 1920 and onwards recorded entry 'Mana' and in the absence of any

3

contrary entry, the same could not have been ignored. The documents pertaining to the pre-constitutional era had great probative value and the same were required to be given due weightage while deciding the tribe claims. It is further submitted that during the pendency of the present proceedings, the brother of the petitioner namely Ankush has been issued a validity certificate on 31.1.2019. In view of the decision in *Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others* [**2010(6) Mh.L.J. 401**], the petitioner is entitled to be granted validity certificate.

5. The learned Assistant Government Pleader for respondent Nos.1 and 2 supported the impugned order. It was submitted that the Scrutiny Committee after considering the report of the Vigilance Cell was justified in turning down the claim of the petitioner. It was, however, not disputed that the blood relatives of the petitioner have been issued validity certificates by the Scrutiny Committee.

6. On perusal of the documents on record including the report of the Vigilance Cell, it is seen that the entries since the year 1920 and onwards consistently indicate that the forefathers belong to 'Mana' community. In paragraph No.14 of the impugned order, the Scrutiny Committee has recorded a finding with regard to these consistent entries

4

and absence of any contrary entries. In view of the fact the Scheduled Tribe order came into force in the year 1950, there was no reason for the Scrutiny Committee to expect words 'Scheduled Tribe' to be mentioned against the old entries. This aspect has been considered by the Division Bench in the decisions in *Gajanan s/o Pandurang Shende vs. Head-Master, Govt. Ashram School, Dongargaon Salod and ors* [2018(2) Mh.L.J. 460] as well as in *Gitesh s/o Narendra Ghormare vs. Scheduled Tribe Certificate Scrutiny Committee, Nagpur and ors* [2018(4) Mh.L.J. 933]. In addition, with the grant of validity certificate to the petitioner's real brother which is dated 31.1.2019 and in the light of the law laid down in the decision in *Apoorva d/o Vinay Nichale (supra)*, the claim of the petitioner deserves to be upheld.

7. Thus, considering the entire material on record, we are satisfied that the petitioner has demonstrated that he and his forefathers belong to 'Mana' Scheduled Tribe. The order passed by the Scrutiny Committee dated 11.6.2013 is, therefore, not sustainable. It is accordingly set aside. It is held that the petitioner belongs to 'Mana' Scheduled Tribe and is entitled to be issued validity certificate by respondent No.1-Scrutiny Committee. The same be accordingly done within a period of four weeks from the production of this order before the Scrutiny Committee.

5

8. Consequent upon the aforesaid adjudication, respondent No.3 shall release the petitioner's mark sheets and all other documents pertaining to his education.

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

JUDGE

JUDGE

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