

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

...

WRIT PETITION NO. 6379 /2013

Nageshwar s/o Wamanrao Naranware
Aged about 28 years, occu: Service
R/o SRPF Camp, Amravati
Tq. &Dist. Amravati.

..Petitioner

versus

1. The State of Maharashtra
Through its Secretary,
Department of Tribal Development
Mantralaya, Mumbai-32.

2) The State of Maharashtra
Through its Secretary
Public Works Department
Mantralaya, Mumbai-32.

3) The Scheduled Tribe Caste Certificate
Scrutiny Committee, Amravati Division,
Amravati: Through its Member-Secretary

.. Respondents

...

Mr. S.O.Ahmed, Advocate for Petitioner
Mr.M.K. Pathan, AGP for Respondents

...

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

DATED : 23rd August, 2022.

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

This Petition had already been admitted on 29th January, 2016. The petitioner's claim as belonging to '*Mana*' Scheduled Tribe, has been invalidated by the Respondent No. 3-Scrutiny Committee, Amravati vide order dated 11th October, 2013.

2. We have heard learned counsel for the parties at length and have gone through the documents placed before us including the impugned order. The petitioner had submitted a total of eleven documents in support of his Tribe claim. The Respondent No.3-Committee has considered those documents and found that the same are the copies of school record, birth and death record in respect of the applicant, his great grandfather and the paternal grandfather pertaining to the years 1939 to 2002 wherein the caste entries are recorded as '*Mana*'. The Respondent No.3-Committee, however, has declined to issue the validity certificate on the basis of said documents by relying upon the judgment of the Hon'ble Supreme Court in Civil Appeal No. 8189/2001

(Kunda Vishwanath Ghodmare vs. the Committee for Scrutiny of Tribe Claims). According to the Committee, the Hon'ble Supreme Court has accepted the fact that there are 'Manas' belonging to 'other caste' in Maharashtra apart from 'Mana Scheduled Tribe', as per entry No.18 of list of Scheduled Tribes in Maharashtra and it is the duty of the Scrutiny Committee to ascertain whether the applicant belongs to 'Mana' Scheduled Tribe or 'Mana' of other caste.

3. It is thus obvious that the Scrutiny Committee ought to have ascertained whether the petitioner belongs to 'Mana' Scheduled Tribe or not.

4. It is well settled by now that while ascertaining the caste claim of a person, the pre Constitutional documents have more probative value. In the present case, the petitioner has relied upon the document dated 17th October 1939 issued in the name of his great grandfather showing caste as 'Mana'. However, in the report submitted by the vigilance

cell, the Officer concerned found that the caste of great grandfather of the petitioner is recorded as '*Manya*'. The aforesaid discrepancy appears to us to be factually incorrect as the original record would show that the caste of the great grandfather of the petitioner in the entry is shown as 'Mana' and not 'Manya', which the learned AGP does not dispute. The entry is in respect of birth record of a female child (Baji) born to Bhanu Ragho, great grandfather of the petitioner issued by the Tahsildar Ralegaon, District Yavatmal showing the caste as 'Mana'. That apart, another pre Constitutional document dated 20th November, 1942 submitted by the petitioner pertains to paternal great grandfather, namely, Kanhu Ragho, which is an extract of birth record of a female child born to Bhanu, showing the caste as 'Mana'.

5. The Respondent No.3-Committee has ignored these documents on the count that some post Constitutional documents showed caste of relatives of the petitioner as 'Mani'. There is absolutely no reason assigned by the

Scrutiny Committee as to why the pre-Constitutional documents would not prevail over the post-Constitutional documents. We, thus, find the approach of the Committee in evaluating the documentary evidence to be unsustainable. It would have been a different matter, had the Committee considered the fact that documents indicate the caste of the blood relatives as 'Mana' but does not prove the same to be 'Mana Scheduled Tribe'. The Committee has erroneously ignored pre-Constitutional documents to invalidate the Tribe claim of the petitioner.

6. In addition to the documentary evidence, the learned Advocate for the petitioner has drawn our attention to the order dated 23rd November, 2017 passed by the coordinate Bench at Nagpur in Writ Petition No. 5935/2015. The petitioner therein, namely, Tukaram Govindrao, is the real uncle of the present petitioner. In the said case as well, the document in the name of Bhanu Ragho was placed for consideration before the Scrutiny Committee. The vigilance

cell has reported that the entry is correct and it refers to the birth extract dated 17th October 1939, but show the caste as 'Manya'. The Court found that except for the said document, in all other documents, the caste of the relatives of the petitioner therein was recorded as 'Mana'. The Court therefore, for the purpose of verification, called for the record from the Committee, to factually verify the said document and found that there is birth register extract in the name of Bhanu Ragho showing the caste as 'Mana' and not as *Manya* in respect of the entry of birth of female child on 17th October, 1939. The Court therefore observed that the Committee has committed an error in relying upon the entry which was not in existence to hold that the caste of real paternal grandfather (who is the great grandfather of the present petitioner) was 'Manya'. The Court further observed in paragraph no.5 as under :-

“5. We have already taken a view in Writ Petition No.3308/2013 decided on 8th November 2017 (Gajanan s/o Pandurang Shende vs. The Headmaster, Govt. Ashram School and others) that merely because entry 'Mana' is shown in the caste column, it does not follow that the petitioner does not belong to 'Mana',

Scheduled Tribe category. Similarly, we have also held that where the documents having probative value are produced on record and the genuineness of it is not disputed, the question of applying affinity test to reject the claim for 'Mana', Scheduled Tribe does not at all arise. We have considered such aspects in detail and we need not elaborate it now, except to say that we have held as such, by construing the ratio of various decisions of the Apex Court."

7. Thus, the real uncle of the petitioner possesses a Tribe validity certificate. We have already endorsed that the documents submitted by the petitioner before the Respondent No.3-Committee would support his claim as belonging to 'Mana'. In that view of the matter, the impugned order is liable to be quashed and set aside.

8. Hence, the following order :-

ORDER

(i) The order dated 11th October, 2013 passed by the Respondent No.3-Committee invalidating the caste claim of the petitioner is hereby quashed and set aside.

(ii) It is held that the petitioner belongs to 'Mana' Scheduled Tribe.

(iii) The Respondent No.3-Committee is directed to issue caste validity certificate to the petitioner as belonging to

‘Mana’ Scheduled Tribe, within a period of four weeks from the date of production of copy of this judgment.

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

[ANIL L. PANSARE,J.]

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[ROHIT B. DEO,J.]