

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

Writ Petition (WP) No. 1716/2017

Sudhakar s/o Sheshrao Choudhary
Aged about 25 years, Occ. Student,
R/o. R/o. Wirkhed, Post. Watkhed(Bk),
Tah. Babhulgaon, District Yavatmal.

..... PETITIONER

// VERSUS //

1. The State of Maharashtra
through its Secretary,
Department of Tribal Development,
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Caste Certificate
Scrutiny Committee through
its Chairman, Irwin Chowk,
Amravati Division, Amravati.

.... RESPONDENT(S)

Shri Ananta Ramteke, Advocate for the petitioner
Ms. Hemlata Jaipurkar, AGP for the respondents

CORAM : A.S. CHANDURKAR AND SMT. M.S. JAWALKAR, J.J.

DATED : 15/03/2022

ORAL JUDGMENT : (PER:- A. S. CHANDURKAR, J.)

The challenge raised in this writ petition is to the order dated 09.01.2015 passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati invalidating the tribe claim of the petitioner of belonging to “Mana” Scheduled Tribe. The claim of the petitioner is based on various pre-constitutional documents with the entry

“Mana”. The Scrutiny Committee has proceeded to invalidate the claim of the petitioner principally on the grounds that in the old entries the words “Scheduled Tribe” are not mentioned and that the petitioner was not able to establish affinity with Mana community.

2. Shri Ananta Ramteke, learned Counsel for the petitioner submitted that the old records were produced by the petitioner which were also verified by the Scrutiny Committee pertaining to the year 1934 and onwards. All these documents record the entry “Mana” and the same had been verified by the Vigilance Cell. Merely because the words “Scheduled Tribe” were not stated against these entries, same would not be a reason to disallow the petitioner’s claim. He further submitted that the old documents prior to 1950 have great probative value and when such documents are available the claim could not have been rejected only by relying upon the affinity test. The learned Counsel placed reliance on the decision in *Gajanan s/o Pandurang Shende Vs. Head-Master, Govt. Ashram School, Dongargaon Salod and others* [2018(2) **Mh.L.J. 460**] as well as the judgment dated 24.02.2020 in Writ Petition No. 6711/2018 (*Mr. Sandeep Shatrughan Dharne Vs. The Commissioner, Tribal Research and Training Institute and ors.*). It was thus submitted that the order of the Scrutiny Committee was liable to be set aside.

3. On the other hand, Ms. Hemlata Jaipurkar, learned Assistant Government Pleader for the respondents supported the impugned order. It was submitted that in the absence of the petitioner indicating affinity to “Mana” Scheduled Tribe the claim of the petitioner was not liable to be upheld. It would not be permissible merely on the basis of old documents to accept the status of the petitioner as claimed by him. It was thus submitted that there was no reason to interfere with the order passed by the Scrutiny Committee.

4. We have heard the learned Counsel for the parties and we have perused the documents placed on record. A perusal of the report of the Vigilance Cell dated 30.10.2010 indicates that in all the pre-constitutional documents entry “Mana” has been shown. There is no document bearing any contrary entry. The old documents relied are of the years 1919, 1933, 1935 and 1945. All consistent entries therein indicate that the forefathers of the petitioner belong to “Mana” Scheduled Tribe. The Scheduled Tribe Order having come into force in the year 1950 there was no occasion to mention the caste/tribe in the documents prior to coming into force of the Constitution (Scheduled Tribes) Order, 1950. It is thus found that these pre-constitutional documents carry greater probative value.

5. In so far as affinity test is concerned, we find that the Hon'ble Supreme Court in the case of *Anand vs. Committee for Scrutiny and Verification of Tribe Claims* [2011(6) Mh.L.J. 919] has held that higher degree of probative value ought to be given to old documents and in such cases the affinity test cannot be regarded as the litmus test for establishing the link to the claimant with Scheduled Tribe only. Aforesaid decisions have been considered by this Court in *Gajanan s/o Pandurang Shende* and *Mr. Sandeep Shatrughan Dharne (supra)*. Thus, merely on the basis of the affinity test the claim of the petitioner was not liable to be rejected. We therefore find that the Scrutiny Committee committed an error in invalidating the tribe claim of the petitioner.

6. For the aforesaid reasons, we pass the following order:-

- i. The order passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati on 09.01.2015 is set aside.
- ii. It is declared that the petitioner belongs to "Mana" Scheduled Tribe which is Entry No. 18 of the Constitution (Scheduled Tribes) Order, 1950.
- iii. The Scrutiny Committee shall issue Validity Certificate to the petitioner within a period of four weeks

from the production of this order.

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

8. Civil Application (CAW) No. 481/2022 is disposed of.

JUDGE

JUDGE

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MAHADEV
GATE

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