

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

WRIT PETITION NO. 6811 OF 2013

Suresh S/o Namdeo Gajbhe,
Aged about 47 years, Occ. Service,
R/o Saoner, District Nagpur.

PETITIONER

.....VERSUS.....

The Scheduled Tribe Caste Certificate Scrutiny Committee,
Gadchiroli.

RESPONDENT

Ms. Himani Kavi h/f Ms. P.D. Rane, Advocate for the petitioner.
Shri D.P. Thakre, Additional Government Pleader for the respondent/ State.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 10/11/2022

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

The challenge raised in this Writ Petition is to the order passed by the Scrutiny Committee dated 17/5/2013 thereby invalidating the tribe claim of the petitioner of belonging to 'Mana' Scheduled Tribe.

2. It is the case of the petitioner that he and his forefathers belong to 'Mana' community which is recognized as Scheduled Tribe vide entry No.18 of the Constitution (Scheduled Tribes) Order, 1950. In support of such claim, the petitioner sought to rely upon an old revenue record of the year 1932-33 indicating the reference of the word 'Mana' against the name of the petitioner's grandfather. The petitioner also sought to rely upon a validity certificate issued to his cousin brother on 10/6/2010. When the claim was sought to be examined by the Scrutiny

Committee, it called a report of the vigilance cell. In the report of the vigilance cell dated 17/1/2013, a reference has been made to two old documents of the years 1921-22 and 1955. In the report dated 28/12/2012, it has been stated that in the old documents, the entry 'Mana' has been found. The Scrutiny Committee however while deciding the tribe claim discarded the document of the year 1932-33 for the reason that it was not mentioned therein after the word 'Mana' that the person named belonged to Scheduled Tribe. The validity certificate granted to the cousin brother was also ignored. By the said order dated 17/1/2013, the Scrutiny Committee invalidated the petitioner's tribe claim.

Being aggrieved, the petitioner has challenged the aforesaid order.

3. The learned Counsel for the petitioner submitted that considering the two documents of pre-independence era of the years 1921-22 and 1932-33 with the entry 'Mana', it was clear that the said old documents had great probative value and they were not liable to be ignored. Even in the revenue record of the year 1955, same entry was found. The validity certificate issued to the cousin brother was not liable to be discarded only on the ground that the same was issued in the light of the decision in *State of Maharashtra & Ors. Vs. Mana Adim Jamat Mandal* (Civil Appeal No. 5270/2004 decided on 8/3/2006). In support

of her submissions, the learned Counsel for the petitioner placed reliance on the decisions in *Ku. Nayan d/o Bhaskar Chouke Vs. The Scheduled Tribes Caste Scrutiny Committee, Nagpur & Anr.* [Writ Petition No. 491/2019 decided on 16/7/2021] and in *Ku. Pallavi d/o Rajendra Dardemal Vs. The Vice-Chairman/ Member Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur & Ors.* [Writ Petition No. 309/2021 decided on 20/7/2022]. It was thus submitted that the order passed by the Scrutiny Committee was liable to be set aside.

4. The learned Additional Government Pleader for the respondent supported the impugned order. He relied upon the record of the Scrutiny Committee and submitted that after due consideration of the material on record, the Scrutiny Committee indicated its dissatisfaction with the old documents on record. The validity certificate having been issued to the petitioner's cousin on the strength of the order passed by the Hon'ble Supreme Court, much value could not be attached to the same. It was thus submitted that the order passed by the Scrutiny Committee did not call for any interference.

5. We have heard the learned Counsel for the parties and we have also perused the record maintained by the Scrutiny Committee.

6. In the report of the vigilance cell, it has been clearly stated that the old documents of the years 1921-22 and 1955 had been

examined. The entry 'Mana' was found therein. The document of the year 1932-33 also bears a similar entry. It is thus clear that the three old documents relied upon by the petitioner do not bear any adverse entry and in all the documents, there is mention of the word 'Mana'. Two of these documents being of pre-independence era are entitled to be given necessary weightage having more probative value. The Scrutiny Committee in the impugned order has disregarded the document of the year 1932-33 only for the reason that after the word 'Mana', it has not been stated that the same pertains to Scheduled Tribe. The Scheduled Tribe Order having come into force in the year 1950, this reason put forth by the Scrutiny Committee cannot be accepted.

7. As regards the validity certificate granted to the petitioner's cousin, the same is also required to be given due weightage. The effect of issuing a validity certificate pursuant to the directions issued in Civil Appeal No. 5270/2004 has been considered by this Court in its decisions in *Ku. Nayan Bhaskar Chouke* and in *Ku. Pallavi d/o Rajendra Dardemal (supra)* wherein it has been held that in absence of the stand of the Scrutiny Committee that such validity certificate was issued without due enquiry, the same could not be disregarded. We further find that the decision of this Court in *Gitesh s/o Narendra Ghormare Vs. Scheduled Tribe Certificate Scrutiny Committee Nagpur and others [2018(4) Mh.L.J. 933]* also supports the case of the petitioner wherein this Court has

considered the effect of old entries of the nature similar to 'Mana'.

8. We therefore find that there is sufficient material on record in the form of pre-independence material on the basis of which the tribe claim of the petitioner ought to have been accepted by the Scrutiny Committee. The impugned order has been passed without considering the law laid down by this Court in its earlier decisions. In the light of the consistent record coupled with the report of the vigilance cell which favours the petitioner, it is not possible to sustain the order passed by the Scrutiny Committee.

9. Hence for the aforesaid reasons, the order passed by the Scrutiny Committee on 17/5/2013 is set aside. It is declared that the petitioner has proved that he belongs to 'Mana' Scheduled Tribe. The Scrutiny Committee shall within a period of six weeks from the date of receipt of copy of this judgment issue validity certificate to the petitioner accordingly.

10. Rule is made absolute in the aforesaid terms. No costs.

(M.W. CHANDWANI, J.)

(A.S. CHANDURKAR, J.)

SUMIT