



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

WRIT PETITION NO.1306/2023

Ku. Ravita D/o Rambhau Sawsakade,
aged about 21 Yrs., Occ. Student,
R/o At Post Masal, Tq. Chimur,
Dist. Chandrapur.

... Petitioner

- Versus -

1. State of Maharashtra,
through its Secretary, Tribal Development
Department, Mantralaya, Mumbai-32.
2. Scheduled Tribe Certificate Scrutiny
Committee, Chandrapur, through
its Member-Secretary, Office at Room
No.20, Administrative Building,
Second Floor Collectorate Office
Campus, Civil Lines,
Chandrapur 442 401.
3. Ravi Institute of Diploma in
Pharmacy, through its Principal
Mahadula, Devi Road, Koradi,
Tq. Kamptee, Dist. Nagpur 441 111.

... Respondents

Mr. Shankar Borkute, Counsel for the Petitioner.
Mr. S.A. Ashirgade, Additional Government Pleader for
Respondent Nos.1 and 2.
Mr. H.S. Mahalle, Counsel for respondent No.3.

CORAM: A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 31.8.2023

ORAL JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. The petitioner being aggrieved by the order dated 01/12/2022 passed by the Scrutiny Committee invalidating her tribe claim as Mana Scheduled Tribe has filed this petition.

3. The petitioner belongs to Mana community recognized as Scheduled Tribe in the State of Maharashtra as per the Presidential Notification under Article 342(1) of the Constitution of India at serial No.18. The tribe verification claim was presented by the petitioner on 10/08/2021 through Principal, Eklavya Model Residency School, Borgaon. She has submitted the following documents along with her tribe claim.

a) *Copy of original caste certificate dated 22/12/2020 issued by Sub-Divisional Officer, Chimur, Dist. Chandrapur as Mana Scheduled Tribe.*

b) *Copy of extract of school admission register of the petitioner dated 02/07/2009 issued by Head Master Z.P. Upper Primary School Masal (B), Ta. Chimur, Dist. Chandrapur on 06/10/2022 in which her caste shown as Mana.*

c) *Copy of school leaving certificate of the petitioner dated 25/06/2014 issued by the Head Master Z.P. Upper Primary School Masal (B), Ta. Chimur, Dist. Chandrapur on 16/12/2020 in which her caste shown as Mana.*

d) *Copy of extract of school admission register of the father of petitioner dated 02/07/1979 issued by Head Master Z.P. Upper Primary School Masal (B), Ta. Chimur, Dist. Chandrapur on 16/12/2020 in which her caste shown as Mana.*

e) *Copy of school leaving certificate of the father of the petitioner dated 30/04/1989 issued by the Head Master Z.P. Upper Primary School Masal (B), Ta. Chimur, Dist. Chandrapur on 16/12/2020 in which her caste shown as Mana.*

f) *Copy of caste certificate of the father of the petitioner namely Rambhau S/o Mangru Sawsakade dated 11/06/2011 issued by the competent Authority as Mana Scheduled Tribe.*

g) Copy of school leaving certificate of the grandfather of the petitioner dated 30/09/1964 issued by the Head Master Z.P. Upper Primary School Masal (B), Ta. Chimur Dist. Chandrapur on 01/02/2021 in which his caste shown as Mana.

h) Copy of death certificate of grandfather of the petitioner namely Mangru Soma Sawsakade issued by the competent authority in which his date of death shown as 15/04/1997.

i) Copy of death certificate of great grandfather of the petitioner namely Somaji Shrawan Sawsakade issued by the competent authority in which his date of death shown as 20/03/1985.

j) Copy of 7/12 extract of the year 2020-21 issued by competent authority on 03/03/2022.

k) Copy of P-11 Pacha Salana Khasra of the year 1970-71 issued by the competent authority on 23/08/2021.

l) Copy of Kistbandi Khatony of the year 1960-61 issued by the competent authority on 27/09/2021.

m) Copy of record of rights (Adhikar Abhilekh Panji) of the year 1954-55 issued by the competent authority dated 23/07/2021.

4. On 24/03/2022 she appeared before the respondent Committee and submitted one pre-independence document i.e.

Birth Extract Register of her grand aunt namely Radha in which her father's name shown as Soma Shrawan Mana and date of birth 28/11/1945. The respondent No.2 issued hearing notice and called upon the petitioner on 19/04/2022 for hearing. The petitioner appeared before the Committee for hearing on same date. The respondent No.2 Committee passed the order and rejected the tribe claim of the petitioner with liberty to file afresh. The claim was rejected as she has not filed any pre-independence document.

5. The petitioner has again forwarded a fresh proposal on 07/07/2022 through Principal, Ravi Institute in Pharmacy, Mahadula, Devi Road, Koradi, Nagpur by submitting the documents and filed pedigree on affidavit. In addition to above documents, she has submitted one birth certificate of great grandfather of the petitioner in which Shrawan Mana having one male child on 10/06/1923 has been mentioned. The petitioner has also filed the validity certificate of cousin uncle Nitesh Mansaram Sawsakade as Mana Tribe dated 13/11/2009 issued by

the Caste Scrutiny Committee, Gadchiroli, however, the Caste Scrutiny Committee has refused to accept the said documents on record. The respondent No.2 Scrutiny Committee on 01/12/2022 passed the order invalidating the tribe claim of the petitioner and the invalidation of the tribe claim was mainly on the ground that affinity test not matched with the tribe claim and the petitioner not filed sufficient documents to prove her claim.

6. The petitioner has stated that the tribe claim was rejected simply on the ground that the documents are suspicious. The validity certificates of the relatives of the petitioner are not accepted by the Committee and without considering the claim again invalidated the tribe claim of the petitioner. Hence the petitioner has filed this petition.

7. The learned Additional Government Pleader has produced original record for perusal and stated that pre-independence document on which the petitioner is relying is suspicious. That document was torn and the entries are made

afterwards with the sketch pen. The family tree is not produced on record to show the relevance of said document. There is no any documentary evidence to prove that the petitioner is from Mana Scheduled Tribe. Hence the Committee has rightly rejected the petitioner's tribe claim.

8. Heard both sides. Perused the record.

9. The tribe claim of the petitioner was rejected by the Scrutiny Committee twice. The old documents were not filed on record and, therefore, earlier claim was rejected with liberty to submit a fresh claim. Accordingly, the petitioner has submitted a fresh claim along with the pre-independence document i.e. the Birth Extract Register of grand paternal aunt 'Radha'. On perusal of record it appears that the petitioner has failed to file the family tree on record. Though the petitioner has claimed that there is validity certificate issued by the same Caste Scrutiny Committee to her blood relatives she has not mentioned the names of said

relatives in the family tree on record and, therefore, the validity certificate of the blood relatives of petitioner was not considered.

Prima facie the documents filed on record show the tribe of the petitioner as Mana and the validity certificate of the blood relatives of the petitioner is also not considered for want of family tree. Therefore, it is necessary to give an opportunity to the petitioner to put-forth her tribe claim properly by remanding the matter to the Scrutiny Committee for fresh consideration.

10. For the aforesaid reasons, the following order is passed:-

(i) The order passed by the Scrutiny Committee on 01/12/2022 is set aside.

(ii) The proceedings are remanded to the Scrutiny Committee for fresh consideration in accordance with law.

(iii) The petitioner is at liberty to file additional documents and also supply the revised family tree to substantiate her tribe claim.

(iv) The Scrutiny Committee shall supply the copy of the second report of the Vigilance Cell to the petitioner and petitioner shall file reply to the same. The claim of the petitioner shall thereafter be decided in accordance with law.

(v) To enable the consideration of the petitioner's claim, she is directed to appear before the Scrutiny Committee on 12/09/2023.

(vi) Since the petitioner is a student, her claim be decided expeditiously and preferably by the end of December, 2023.

(vii) All points are kept open.

11. Rule is made absolute in the above terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)