

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

WRIT PETITION NO.1813 OF 2014

Petitioner : Vasanta s/o Mukunda Nagose,
Aged about 30 years, Occupation: Service as Peon,
R/o Kitadi Post: Hirapur, Tah. Chimur,
Distt. Chandrapur.

– Versus –

Respondents : 1) Scheduled Tribe Certificates Scrutiny Committee,
Gadchiroli, Division Nagpur, through its Chairman,
Office at Complex Area, Near Zilla Parishad
Sankul, Gadchiroli, Tq. & Distt. Gadchiroli.

2) State of Maharashtra, through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.

3) Manoharbhair Shikshan Prasarak Mandal, Armori,
through its Secretary,
R/o Armori, Tah. Armori, Distt. Gadchiroli.

4) The Principal,
Rashtrapita Mahatma Gandhi Arts & Science,
Nagbhid, Tah. Nagbhid, Distt. Chandrapur.

5) Joint Director of Higher Education,
Nagpur Division, Nagpur.

Ms. P.D. Rane, Advocate for the Petitioner.
Mrs. Kalyani Deshpande, A.G.P. for Respondent Nos.1, 2 & 5.
Mr. Nihalsingh Rathod, Advocate for Respondent Nos.3 & 4.

CORAM : **ROHIT B. DEO AND Y.G. KHOBRADE, JJ.**
DATE : **6th JANUARY, 2023.**

J U D G M E N T : *(Per Y.G. Khobragade, J.)*

Rule. Rule made returnable forthwith. Heard finally by consent of the learned Counsel for the parties.

02] The challenge raised in this writ petition is to the order passed by the respondent No.1-Scrutiny Committee dated 19/03/2013, thereby invalidating the tribe claim of the petitioner of belonging to 'Mana' Scheduled Tribe.

03] 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 a validity certificate issued to his cousin uncle on 02/11/2007 by respondent No.1-Scrutiny Committee.

04] Having heard both the sides and after taking into consideration the documents placed before us, we find that while invalidating the caste claim of the petitioner, respondent No.1-Scrutiny Committee has ignored the validity certificate issued in favour of cousin uncle of the petitioner, namely Dharamdas Kashinath Nagose, as belonging to "Mana" Scheduled Tribe on 02/11/2007 on the ground that Dharamdas Nagose is not related to the

applicant and his name does not appear in the genealogical tree. Respondent No.1 despite noticing the above validity and further noticing that the caste of the petitioner's great grandfather is recorded as 'Mana' in document mentioned as P-1 of the year 1920-1923, invalidated the tribe claim of the petitioner on the basis of documentary evidence and affinity test. The Scrutiny Committee, however, has not reopened the case of the cousin uncle of the petitioner. Such a stand taken by the Scrutiny Committee is unsustainable in law. If the same is to be accepted, it will create anomaly in the family. The cousin uncle of the petitioner will get the benefits of social status available to Scheduled Tribes, whereas the petitioner will be deprived of such benefits.

05] The Scrutiny Committee ought to be mindful of the fact that the tribe validity certificate granted to a person is a conclusive proof of his/her social status. The document confirming the social status of a person would also be a proof of social status of his real blood relatives unless it is shown that the person possessing validity has obtained the same by fraud, misrepresentation or suppression of facts.

06] In the case of Apoorva Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others reported in 2010(6)Mh.L.J.401, the

Division Bench of this Court has taken a view that when during the course of enquiry a candidate submits a caste validity certificate granted earlier certifying that blood relative of the candidate belongs to the same caste as that claimed by the applicant, the Committee shall grant such certificate without calling for vigilance cell report. It is further held that if the Committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the Committee may refuse to grant certificate to the applicant before it.

07] The coordinate Bench of this Court has also taken a similar view in Writ Petition No.3837/2013 (Aishwarya d/o Madhukar Sonwane vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli and others) and Writ Petition No.491/2019 (Ku. Nayan d/o Bhaskar Chouke vs. Scheduled Tribes Caste Scrutiny Committee and another).

08] Therefore, we do not find any reason to take a different view in the matter, since the cousin uncle of the petitioner holds a validity certificate. It is nobody's case that the said certificate has been obtained by fraud or misrepresentation. In the circumstances, the Scrutiny Committee ought to have granted validity certificate in favour of the petitioner, as the vigilance cell

enquiry or affinity test would not be decisive in the facts of the present case. Hence, we hold that the Scrutiny Committee has fallen in a serious error in refusing to issue validity certificate in favour of the petitioner. In the result, the following order is passed:

ORDER

- I. The writ petition is allowed.
- II. The impugned order dated 19/03/2013 is hereby quashed and set aside.
- III. We direct the Respondent No.1-Scrutiny Committee to issue caste validity certificate in favour of the petitioner as he belonging to 'Mana' Scheduled Tribe within a period of four weeks from the date of receipt of copy of this order. It is declared that the petitioner belongs to 'Mana' Scheduled Tribe.
- IV. Rule is made absolute in the aforesaid terms with no order as to costs.

(Y.G. KHOBRADE, J.)

(ROHIT B. DEO, J.)

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