



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

WRIT PETITION NO. 2526 OF 2023

Arpan s/o Anil Gajbe,
aged about 24 years, Occ. Student,
R/o Holi Maidan, Katol, Tah. Katol,
District – Nagpur.

PETITIONER

.....VERSUS.....

- 1] The Vice-Chairman/Member-Secretary,
Scheduled Tribe Caste Certificate Scrutiny Committee,
Adiwasi Vikas Bhavan, Giripeth, Nagpur.
- 2] The Head, Department of Geology,
Savitribai Phule Pune University,
Ganeshkhind, Pune – 411007.

RESPONDENTS

Ms Preeti Rane, Counsel for the petitioner.
Ms N.P. Mehta, Additional Government Pleader for respondent no.1.

CORAM : A. S. CHANDURKAR AND ABHAY J. MANTRI, JJ.

DATE : 26/10/2023

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

RULE. Rule made returnable forthwith and heard the learned Counsel for the parties.

2] The petitioner is aggrieved by the order dated 25/1/2023 passed by the Scrutiny Committee invalidating the petitioner's claim of belonging to 'Mana' Scheduled Tribe. *Inter alia*, the petitioner sought to rely upon various pre-constitutional documents to substantiate the claim before the Scrutiny Committee. A document dated 1/7/1918 pertaining to the petitioner's great-grandfather – Pundlik having entry 'Mana' was sought to be relied upon. The extract from the School Register with entry 3163 indicating the fact that said Pundlik had taken education till 28/3/1929 in the said School was the basis of such claim. The Vigilance Cell submitted its report and verified the said document. It however

noted that since the entry referred to the date 1/5/1925 as the date of admission, the entry was doubtful. The Scrutiny Committee on the basis of this document as well as the document of the year 1954-55 proceeded to invalidate the petitioner's claim of belonging to 'Mana' Scheduled Tribe.

3] We have heard the learned Counsel for the parties and we have also perused the records maintained by the Scrutiny Committee. At the outset, it may be stated that pre-constitutional documents are required to be given due weightage since they carry great probative value. The oldest document on record is dated 1/7/1918 which pertains to the petitioner's great-grandfather is the extract from the School Register with the entry number 3163. Merely because the date of admission was shown as 1/5/1925, the same cannot be a reason to doubt the said document. We find that such doubt expressed is without any legal foundation or basis. When the document with entry 3163 was verified from the School record with the entry 'Mana', the same ought to have been accepted by the Scrutiny Committee. There can hardly be any basis for rejecting the claim on the basis of such unfounded apprehension. Since the oldest document relied upon by the petitioner supports his claim, the Scrutiny Committee ought to have validated the same. Undisputedly, the said document was verified by the Vigilance Cell and entry 'Mana' was found therein.

In the subsequent document which is an extract of the assessment register of the period from 1954-55 to 1956-57, there is a reference to the word 'Mani' cannot defeat the petitioner's claim. The question to be considered is whether the oldest document has to be given due weightage or whether the claim is liable to be decided by taking into consideration the subsequent documents. In this context, the learned Counsel for the petitioner has relied upon Rule 11(2)(c) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification

of) Certificate Rules, 2003. As per the said provision, an applicant seeking verification is required to submit various documents and especially those pertaining to education if taken by the predecessors. The document dated 1/7/1918 is an extract of the School Register with entry number 3163 and the same has been verified by the Vigilance Cell. On the other hand, the later document of the years 1954-55 to 1956-57 pertains to an extract from the revenue record and therefore the same cannot be given higher weightage than the old document of 1/7/1918.

4] On the aspect of affinity, it is clear from the recent decision of the Hon'ble Supreme Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra & Ors.* [2023(2) Mh.L.J. 785] that the affinity test cannot be treated as a litmus test. The overall material on record has to be taken into consideration. The importance to be given to the pre-constitutional documents has been re-iterated in the case of *Priya Pramod Gajbe Vs. State of Maharashtra & Ors.* [Civil Appeal No. 7117/2019 decided on 11/7/2023]. We therefore find that the Scrutiny Committee erred in holding against the petitioner. The reasons assigned in the impugned order are contrary to what has been held in the aforesaid decisions. The impugned order therefore is not sustainable.

5] For the aforesaid reasons, the following order is passed :

ORDER

The order passed by the Scrutiny Committee dated 25/1/2023 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 four weeks from receiving copy of this order issue validity certificate to the petitioner.

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

(ABHAY J. MANTRI, J.)

(A.S. CHANDURKAR, J.)

SUMIT