

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

WRIT PETITION NO. 4994 of 2023

Atharva s/o Madhukar Chaudhari
Aged about 18 years, Occupation-Student,
R/o Mandwa, Post-Rajurwadi,
Tahsil Ghatanji, District Yavatmal-445 301.

..... **PETITIONER**

...VERSUS...

The Vice-Chairman/Member Secretary,
Scheduled Tribe Caste Certificate Scrutiny Committee,
Yavatmal

RESPONDENT

Ms Preeti Rane, Advocate for petitioner.

Ms N. P. Mehta, Assistant Government Pleader for respondent.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 8th AUGUST, 2023

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the petitioner. Ms N. P. Mehta, learned Assistant Government Pleader waives service of notice for the respondent.

2. Considering the urgency indicated by the learned counsel for the petitioner that the name of the petitioner figures in the provisional select list of candidates seeking admission to the M.B.B.S./B.D.S. Courses-CAP Round 1 coupled with the fact that the last date for joining the respective colleges is

fixed at 5.30 p.m. on 09.08.2023, the writ petition is taken up for consideration.

3. The petitioner claims to belong to 'Mana' Scheduled Tribe. In support thereof the petitioner seeks to rely upon various pre-Constitution documents of his forefathers. The oldest one is dated 27.01.1916 of his great-grandfather. In the first report of the Vigilance Cell dated 31.03.2023 there is a reference to document of 27.01.1916 which indicates the same had been verified with the entry 'Mana'. The second report of the Vigilance Cell dated 30.06.2023 also refers to the same document as well as subsequent entries from the year 1952 and onwards having the entry 'Mani'. The petitioner's brother has been issued validity certificate on 02.08.2018 pursuant to the order in Writ Petition No.4767 of 2018 (*Akshay Madhukar Chaudhari vs. The Vice Chairman/member Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati and ors.*). The Scrutiny Committee has not given due importance to the validity certificate of the brother of the petitioner on the ground that there were some entries with the word "Mani". On that count, the petitioner's claim has been invalidated.

4. On hearing the learned counsel for the parties and on perusing the record, we find that when the claim of the petitioner's brother came to be invalidated, the Vigilance Cell had conducted its enquiry. The documents were examined by this Court while deciding Writ Petition No.4767 of 2018

on 02.08.2018. In paragraph 5 of the said order, it has been observed as under :

“5.In this situation, when 1916 document records caste as “Mana” and the documents are not found to be fabricated, we direct respondent no.1-Committee to immediately issue validity to petitioner as person belonging to “Mana” Scheduled Tribe. Petition is accordingly allowed and disposed of. No costs.”

5. It is not in dispute that the old documents of the year 1916, 1932 and 1941 have the entry ‘Mana’. The entry with the word “Mani” are in post-Constitution documents. Since these appear to be post-Constitution documents, the same would not have much relevance coupled with the fact that the validity certificate issued to the petitioner’s brother is pursuant to the judgment of this Court. We find that the ratio of the decision in *Apoorva Vinay Nachale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others [2010 (4) Mh.L.J.601]* could be applied to the present case. The Scrutiny Committee erred in not giving due weightage to the earlier adjudication of this Court which considered the very same documents that have now been considered. Though the learned Assistant Government Pleader submitted that the issue with regard to “Mani” entries is pending before the Full Bench, we find that in the facts of the present case the said aspect is not of much relevance since it is found that the documents of 1916, 1932 and 1941 have the entry ‘Mana’.

6. For aforesaid reasons and also by adopting the reasons given in the order in Writ Petition No.4667 of 2018, the following order is passed:

(i) The order dated 19.07.2023 passed by the Scrutiny Committee is set aside.

(ii) It is declared that the petitioner has proved that he belongs to 'Mana' Scheduled Tribe.

(iii) Within a period of four weeks of receiving copy of the judgment, the Scrutiny Committee shall issue validity certificate to the petitioner. Till the validity certificate is received, the petitioner is free to rely upon copy of this judgment to indicate that his claim of belonging to 'Mana' Scheduled Tribe has been accepted.

(iv) Rule is made absolute in aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..