

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

WRIT PETITION NO. 4990 of 2023

Janhvi Manoj Gaikwad,
aged 19 years, Occu. Student.
R/o 29, Zingabai Takli, Nagpur.

..... **PETITIONER**

...V E R S U S...

1. The Scheduled Tribe Caste Certificate Scrutiny Committee,
through its Member Secretary,
Giripeth, Gondia.
2. The Government of Maharashtra-
State Common Entrance Test Cell,
Maharashtra State, 8th floor, New Excelsior Building,
A.K.Nayak Marg, Fort, Mumbai.

..RESPONDENTS

Shri P. R. Parsodkar, Advocate for petitioner.

Shri Amit Madiwale, Assistant Government Pleader for respondent no.1
State.

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

DATE :- 11th AUGUST, 2023

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

Since the petitioner seeks to pursue higher education, the writ
petition is taken up for final hearing.

Rule. Rule made returnable forthwith and heard the learned
counsel for the parties. The learned Assistant Government Pleader has
produced the record of the Scrutiny Committee.

2. The petitioner by relying upon various pre-Constitution documents including the document of 1916-17 of great-great-grandfather claims to belong to 'Mana' Scheduled Tribe. The said document has been verified by the Vigilance Cell and in its report the same finds reference as being in existence. The petitioner's father has been issued validity certificate on 15.11.2019 while the paternal aunt has also been issued such validity certificate on 13.03.2020. The Scrutiny Committee however has proceeded to invalidate the petitioner's claim on the ground that there was certain documents with the entries 'Mani'.

3. Having heard the learned counsel for the parties and after perusing the record of the Scrutiny Committee, we find that undisputedly the petitioner's blood relatives namely her father and paternal aunt have been issued validity certificates. The document of 1916-17 has been verified by the Vigilance Cell with the entry 'Mana' and it being an oldest entry, the same has to be given due weightage since it carries great probative value. Relying upon subsequent documents which are post-Constitution documents including a document of 1947 would not be sufficient to disbelieve the claim of the petitioner.

4. It is not in dispute that old document of the year 1916-17 has the entry 'Mana'. The entry with the word 'Mani' are 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 has been issued to the petitioner's father. We find that the ratio of the decision in *Apoorva Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee No.1 and others* [2010 (6) Mh.L.J.401] could be applied to the present case. The Scrutiny Committee erred in not giving due weightage to the pre-Constitution document of 1916-17. 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 document of 1916-17 with the entry 'Mana'.

5. Insofar as the aspect of affinity is concerned the said issue now has been settled in view of the decision of Larger Bench of the Hon'ble Supreme Court in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and others* [2023(2)Mh.L.J. 785]. Overall material available on record needs to be considered and a decision in this regard has to be taken. In that view of the matter, we find that the Scrutiny Committee was not justified in invalidating the petitioner's claim.

6. Accordingly the following order is passed:

(i) The order passed by the Scrutiny Committee, Nagpur, on 17.07.2023 is set aside.

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

(iii) Within a period of three weeks of receiving the copy of the judgment, the Scrutiny Committee shall issue validity certificate to the petitioner. Till the petitioner receives validity certificate, she can rely upon copy of this judgment to indicate that her claim of belonging to 'Mana' Scheduled Tribe has been upheld.

Rule is made absolute in aforesaid terms. No costs.

The authenticated copy of this judgment be furnished to the learned counsel for the parties.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..