



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

WRIT PETITION NO.6015/2023

Sayali D/o Chandrashekhar Dharne,
age 18 Yrs., Occ. Student,
R/o Mehendibag Road, Opp. Bohra
Colony, Binaki, Nagpur 440 017.

... Petitioner

- Versus -

1. Scheduled Tribe Certificate Scrutiny
Committee, Nagpur Division,
Nagpur, through its Chairman,
Committee for Scheduled Tribe
Claims, Office at Adiwasi Bhawan,
2nd Floor, Giripeth, Nagpur,
Tah. and Dist. Nagpur.
2. State of Maharashtra, through
its Secretary, Tribal Development
Department, Mantralaya, Mumbai.
3. Commissioner and Competent
Authority, State Common Entrance
Test Cell, Mumbai, 8th Floor New
Excelsior Building, A.K. Nair
Marg, Fort, Mumbai 400 001.
4. Chairman, Admission
Regulating Authority, Excelsior
Theatre Building, 9th Floor,
A.K. Nayak Marg, Fort
Mumbai - 400 001.

5. The Principal,
Shri Guru Gobind Singhji
Institute of Engineering and
Technology, Nanded, Guru Tegh
Bahadurji Marg, S.G.G.S.,
Vishnupuri, Nanded,
Maharashtra 431 606.
6. Registrar, Swami Ramanand
Tirth Marathwada University,
Nanded, Guru Tegh Bahadurji
Marg, S.G.G.S., Vishnupuri,
Nanded, Maharashtra 431 606.
7. Sub-Divisional Officer,
Sub-Divisional Office, Umred,
Tq. Umred, Dist. Nagpur. ... Respondents

Mr. P.P. Dhok, Counsel for the Petitioner.
Ms. N.P. Mehta, Assistant Government Pleader for Respondent
Nos.1, 2, and 7.
Mr. N. A. Gaikwad, Counsel for Respondent Nos.3 and 4.

CORAM: A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 14.9.2023

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

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

Heard finally by consent of learned counsel for the parties.

2. The challenge raised in the present writ petition is to the order dated 28.8.2023 passed by the Scrutiny Committee invalidating the petitioner's claim of belonging to Mana Scheduled Tribe.

3. Since the petitioner seeks to pursue higher education we have heard the learned counsel for the parties and we have perused the record maintained by the Scrutiny Committee. Inter alia, the petitioner seeks to rely upon various pre-independence documents of the years 1912-17, 1913-14 and 1914-15 of his predecessors coupled with various other old documents. In addition, he seeks to rely upon validity certificate granted to one of his cousins Pranay Chudamanji Dharne pursuant to the order dated 25.6.2019 passed by the Scrutiny Committee. The Scrutiny Committee while invalidating the petitioner's claim has stated that with regard to the document of 1912-17, the entry found is Mana Kunbi. It is pointed out by the learned counsel for the petitioner from the said document that the names of his

predecessors are shown in column No.6 of the said document while reference is made by the Scrutiny Committee to the names in column No.7 wherein the persons named are not related to the petitioner. We find that the said document clearly indicates names of the petitioner's predecessors in column No.6 which can be gathered from the family tree. This document was thus not liable to be discarded. On the contrary, it is to be noted that this very document was considered by the Scrutiny Committee consisting of four Members while allowing the claim of the petitioner's cousin Pranay. The Scrutiny Committee has discarded the grant of validity certificate to petitioner's cousin on the ground that the family tree indicated in the affidavit of the petitioner's father was not in detail. However, if the said family tree indicated in the affidavit dated 13.3.2023 is perused along with family tree considered by the Scrutiny Committee that was part of the Vigilance Enquiry in the case of Raju Dharne, it is seen that the name of Pranay figures in both the family trees. The petitioner is, therefore, entitled to the benefit of adjudication by

the Scrutiny Committee itself while granting validity to Pranay. Thus from the various pre-constitutional documents the claim of the petitioner of belonging to Mana Scheduled Tribe stands established.

4. Insofar as the aspect of affinity is concerned, its limited importance has been explained by the Hon'ble Supreme Court in Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti V/s. State of Maharashtra and others reported in **2023(2) Mh.L.J. 785**. This position has been clarified in the subsequent decision in Civil Appeal No.7117/2029 (Priya Pramod Gajbe V/s. The State of Maharashtra and others). The observations of the Vigilance Cell, therefore, cannot be treated to be a litmus test. Moreover, the validities granted earlier to the petitioner's blood relatives are not liable to be discarded.

5. We, therefore, find that the Scrutiny Committee misdirected itself by ignoring the old documents as well as the

validity certificates granted to the petitioner's cousin brother and other blood relatives. The impugned order, is therefore, unsustainable.

6. For aforesaid reasons, the order passed by the Scrutiny Committee on 28.8.2023 is set aside. It is declared that the petitioner has proved that he belongs to Mana Scheduled Tribe. Within a period of three weeks from today, the Vigilance Cell shall issue validity certificate to the petitioner. Till the validity certificate is received, the petitioner can rely upon copy of the judgment to indicate that his claim of belonging to Mana Scheduled Tribe has been upheld. The respondent Nos.3 and 4 to take consequential steps in that regard.

An authenticated copy of this judgment be given to the learned counsel for the parties.

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

(MRS. VRUSHALI V. JOSHI, J.)
Tambaskar.

(A.S. CHANDURKAR, J.)