



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

Writ Petition No.2828 of 2024

[Mr. Khushraj S/o Maroti Dandekar **VERSUS** Deputy Director and Member Secretary, The
Scheduled Tribe Certificate Scrutiny Committee, Yavatmal and others]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri Ananta Ramteke, Counsel for Petitioner.
Shri N.S. Rao, Assistant Government Pleader for Respondents.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : 18th JUNE, 2024

P. C. :

1. Heard Shri Ramteke, learned counsel for the petitioner, and Shri Rao, learned Assistant Government Pleader for the respondents, at length.
2. On 19-7-2017, the petitioner produced a certificate from the Sub-Divisional Officer, Yavatmal, certifying that he belongs to 'Mana' Scheduled Tribe.
3. Based on above, the petitioner has secured public employment with the Department of Industries, Energy, Labour and Mining, i.e. the State Government. As a sequel, the claim was forwarded for verification, which was invalidated vide impugned order dated 27-3-2024 passed by the respondent No.1-Committee.
4. Shri Ramteke, learned counsel for the petitioner, would urge that in support of the claim, the petitioner has produced the oldest document of 21-9-1928 in relation to his great grandfather Soma. The document pertains to

a birth entry in relation to a son born to Soma. Apart from above, he has claimed that the father's entry in the school record, viz. Maroti, of 20-7-1967 speaks of belonging to 'Mana' Scheduled Tribe. In addition, his contention is, other thirteen documents produced in support of the claim are illegally ignored by the Committee.

5. Shri Ramteke would urge that the Committee has drawn support from two entries of 17-12-1925 and 20-1-1926 in relation to a son and a daughter born to Soma, great grandfather of the petitioner. According to him, factually in the above record, entries can be inferred as within the span of one month, a daughter is shown to be born after the birth of a son on 17-12-1925 to same father. As such, he would claim that the aforesaid documentary evidence, which is considered by the Committee against the petitioner, ought to have been discarded as incorrect in view of the stand taken by the petitioner. Shri Ramteke would urge that the petitioner in categorical terms in his explanation has denied the relationship with these two persons, viz. a daughter and a son born to Soma. He would also invite our attention to a family tree which was furnished by the petitioner to the Vigilance Cell so as to claim that Soma was never blessed with a daughter and as such the entry of 20-1-1926 in relation to birth of a female child born to Soma is factually incorrect. In addition, Shri Ramteke would urge that it is not open for the Committee to collect the documents adverse to the interest of the petitioner. So as to substantiate the said claim, he has drawn support from Paragraph 19 of the judgment of the Apex Court in *Anand Versus Committee for*

Scrutiny and Verification of Tribe Claims and others, reported in 2011(6) *Mh.L.J.* 919, which reads as under :

“19. Needless to add that the burden of proving the caste claim is upon the applicant. He has to produce all the requisite documents in support of his claim. The Caste Scrutiny Committee merely performs the role of verification of the claim and therefore, can only scrutinise the documents and material produced by the applicant. In case, the material produced by the applicant does not prove his claim, the Committee cannot gather evidence on its own to prove or disprove his claim.”

6. In addition, the contention of Shri Ramteke is that this Court has already taken a view in the judgment delivered in Writ Petition No.3044 of 2022 [*Mr. Vardesh S/o Pratap Bagde Versus Vice Chairman and Member Secretary, The Scheduled Tribe Certificate Scrutiny Committee, Amravati and others*] on 11-1-2024 that the entries, such as “कुन, कु, मा.कु.”, cannot be read adverse to the interest of the petitioner so as to discard the claim for issuance of validity. As such, Shri Ramteke would urge that this Court should quash and set aside the order impugned and declare that the petitioner belongs to ‘Mana’ Scheduled Tribe.

7. As against above, Shri Rao, learned Assistant Government Pleader for the respondents, would oppose the prayer made by the learned counsel for the petitioner. He would claim that the petitioner was duty-bound to discharge the

burden under Section 8 of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short, 'the Act of 2000'). According to him, the petitioner has failed to furnish the information that Soma was blessed with two sons, viz. Dashrath and Narayan. According to Shri Rao, Dashrath is the grandfather of the petitioner and the petitioner in such an eventuality should have produced the documentary evidence depicting that Dashrath belongs to 'Mana' Scheduled Tribe, which he has failed to do so. That being so, Shri Rao would urge that the petition is liable to be dismissed.

8. We have considered the rival claims.

9. No doubt, in support of his claim, the petitioner has produced in all eighteen documents. The oldest document which contains an entry of 'Mana' pertains to the great grandfather Somaji alias Soma. The said entry is of 21-9-1928, wherein the extract of birth register is produced showing that a male child is born to Soma, great grandfather of the petitioner.

10. The petitioner thereafter has also relied on the entry 'Mana' in relation to his father Maroti of 20-7-1967. Maroti, father of the petitioner, is admittedly son of Dashrath and Dashrath was shown be son of Soma, as could be inferred from the family tree which was furnished by the petitioner to the Vigilance Cell.

11. As far as Dashrath is concerned, another son was shown to be born to Soma, i.e. the real brother of Dashrath, viz. Narayan.

12. Neither the documents in relation to Dashrath nor Narayan are produced on record either depicting the date of birth or caste so as infer that they are belonging to 'Mana' Scheduled Tribe and not 'Mana Kunbi'.

13. In support of the aforesaid observations, this Court can place reliance on the provisions of Section 8 of the Act of 2000. Section 8 of the Act of 2000 contemplates that an applicant, like the petitioner, who has produced a caste certificate for issuance of validity, is duty-bound to discharge the burden of proving that he belongs to such tribe.

14. The petitioner has relied on the entry in relation to Somaji and his son Maroti.

15. As far as Dashrath and Narayan, who are grandfather and cousin grandfather of the petitioner, are concerned, the petitioner has not produced any document on record thereby discharging the burden of establishing that his blood relations through Soma are also 'Mana'.

16. The Vigilance Cell, which is required to act in aid of the Committee, has produced on record the adverse entry thereby depicting that the uncle of the petitioner, viz. Vitthal, who has expired on 20-10-1951, belongs to 'Mane Kunbi'.

Similarly, the Vigilance Cell collected the documents in relation to Dashrath, to whom a son, by name Mahadeo, was shown to be born on 22-8-1960, wherein the caste is recorded as 'Kunbi'.

17. Once such documents are produced on record by the Vigilance Cell and the copies of the same are made available to the petitioner, the petitioner was duty-bound to counter the same by producing the correct tribe/caste entry in relation to Dashrath and Vitthal, son of Dashrath. But for giving oral explanation, the petitioner has not produced any document on record to counter the information/documentary evidence collected by the Vigilance Cell, which is duly accepted by the Committee in the backdrop of the provisions of Section 8 of the Act of 2000.

18. In this backdrop, on facts, it can be said that the Committee has rightly accepted the documents which were produced by the Vigilance Cell depicting that the old entries which are of pre-Independence era pertain to 'Mana Kunbi' and not 'Mana' Scheduled Tribe in relation to the blood relations of the petitioner.

19. A support can be drawn from the provisions of sub-rule (2) of Rule 12 of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003. The reliance placed by the petitioner on the documents of Soma, who is allegedly his blood relative from the paternal side, is rightly so

disbelieved in view of the suppression of the information about the other blood relations, who are related to the petitioner through Soma.

20. As far as the contention of Shri Ramteke, learned counsel for the petitioner, that the Committee cannot collect the evidence but has to look into only such documents which are produced by the petitioner as reflected in Paragraph 19 of the judgment of the Apex Court in *Anand's* case, cited supra, is concerned, this Court is required to be sensitive to the provisions of the Act of 2000. The Act of 2000 and the Rules framed thereunder themselves provide for the constitution of the Vigilance Cell, which shall be conducting not only a home enquiry but also a field enquiry. While conducting such field enquiry, it is open for the Vigilance Cell to collect such information – may be in the form of documentary evidence – which might go against the petitioner. The embargo created by virtue of the observations made in Paragraph 19 of the judgment in *Anand's* case, cited supra, is concerned, the embargo is qua the Committee and not the Vigilance Cell, who is a statutory creation, who has to act in aid of the Committee. The support can be drawn from Section 6 of the Act of 2000 and Rules 10 and 12 framed thereunder. Rule 10 reads as under :

“10. Constitution of Vigilance Cell.-

The State Government shall constitute a vigilance cell to assist each Scheduled Tribe Certificate Scrutiny Committee for conducting enquiry which shall consist of,-

- (i) *A Senior Deputy Superintendent of Police;*

- (ii) *Police Inspector (number of Inspectors depending upon the number of cases);*
- (iii) *Police Constables to assist the Police Inspector;*
- (iv) *Research Officer.*

The police personnel shall investigate into the social status claims by conducting school and home inquiries and other enquiry as per the reference made by the Scrutiny Committee under sub-rule (2) of rule 12.”

Rule 10 of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 provides for constitution of Vigilance Cell. The State Government is vested with an authority to constitute a Vigilance Cell and the task assigned to the Vigilance Cell is to assist each Scheduled Tribe Certificate Scrutiny Committee, that too for conducting an enquiry.

The Vigilance Cell consists of a Senior Deputy Superintendent of Police, Police Inspector, Police Constables and Research Officer. As such, the constitution contemplates that the Research Officer should be associated with the Vigilance Cell. The police personnel who are part of the Vigilance Cell are required to investigate into the social status claim by conducting school, home and other enquiry. Such enquiry can be conducted by the Vigilance Cell upon a reference to that effect made under sub-rule (2) of Rule 12 of the very same Rules.

21. In this background, the Rule itself confers the authority in the Vigilance Cell to investigate into the social status claim by conducting the school, home and other enquiry. The said Rule does not contemplate that the Vigilance Cell is

required to confine itself only to the extent of documents which are produced by the claimant of a certificate, but the police investigation into the social status can sprawl to the extent of not only verifying the documents which are produced by the claimant but also such other enquiry as shall be deemed necessary under the aegis of a Senior Police Officer and other Research Officer.

22. The Research Officer is associated with the Vigilance Cell, as the Police Officers, who are the part of the Vigilance Cell, cannot be said to be carrying expertise knowledge of trade, custom and profession of a particular tribe. In such an eventuality, the task which can be said to be assigned to the Research Officer who is associated with the Vigilance Cell is to guide the Police Officers in the matter of investigation of a social status. No doubt, the association of the Research Officer is in aid of the Vigilance Cell. However, it cannot be claimed that the Research Officer must be visiting the Police Officers while conducting investigation into the social status of a claimant.

23. In this background, what can be noticed is, what is permitted under the statute to the Vigilance Cell is to carry out the investigation and collect the material. Though the learned counsel for the petitioner claimed that the Committee cannot on its own collect the material adverse to the interest of the petitioner, however the material collected during the investigation of a social status of a claimant and placed before the Committee cannot be ignored in view of the aforesaid statutory mandate.

24. As such, the judgment relied on by the petitioner in the matter of *Anand*, cited supra, cannot be read in favour of the petitioner to infer that it was the Committee which has collected the documents by exceeding its jurisdiction.

25. Similarly, in the case of the petitioner, this Court has noticed clear entries in relation to 'Mane Kunbi' and such entries which are quite old, viz. of pre-Independence era, this Court has already recorded a finding that the petitioner has failed to discharge the burden as contemplated under Section 8 of the Act of 2000. The entries which are considered by this Court in the judgment in the case of *Vardesh* (Writ Petition No.3044 of 2022), cited supra, are not in relation to 'Kunbi' but only to the words "कुन, कु, मा.कु.". As such, the said judgment will be of hardly any assistance to the petitioner.

26. For the aforesaid discussion, we are of the view that the petitioner has failed to make out a case for causing indulgence in the extra ordinary jurisdiction under Article 226 of the Constitution of India. The petition, in our opinion, lacks merit. The same is, therefore, dismissed. No order as to costs.

27. At this stage, Shri Ramteke, learned counsel for the petitioner, would urge that he would like to challenge this judgment before the Apex Court and as such he seeks time of four weeks for the same, with a further request to issue direction to the respondents not to take any coercive steps against the petitioner in respect of his employment.

28. We grant time of four weeks to the petitioner to challenge this judgment before the Apex Court. In the meanwhile, we direct the respondents not to take any coercive steps against the petitioner in respect of his employment. We, however, make it clear that after a period of four weeks, the protection granted to the petitioner shall cease to operate.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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