



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

WRIT PETITION NO. 2871 OF 2024

Sakshi D/o Govindrao Narnaware
Age about 18 years, Occ : Student
R/o plot No.66, Jaywant Nagar,
Near NIT garden, Rameshwari Ring
Road, Nagpur

.. **Petitioner**

Versus

The Schedule Tribe Caste Certificate
Scrutiny Committee, through its
Member Secretary, Giripeth, Nagpur

.. **Respondents**

Ms. Rashi Nagrare, Advocate for Petitioner.
Mr. D. P. Thakre, Addl. G.P. for respondent.

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

DATED : 09/09/2024.

ORAL JUDGMENT (Per : Abhay J. Mantri, J.)

Rule. Rule is made returnable forthwith. Heard finally,
with the consent of the learned counsel, appearing for the parties.

(2) The challenge is raised to the order dated 28/08/2023
passed by the respondent Caste Scrutiny Committee (hereinafter
referred to as '*the Committee*'), thereby invalidating the claim of the

petitioner that she belongs to the "*Mana*" Scheduled Tribe.

(3) The petitioner claims that she belongs to the "*Mana*" Scheduled Tribe. On 01/06/2022, Sub-Divisional Officer Katol issued a caste certificate in her favour. She was pursuing a B. Tech education against the seat reserved for the Scheduled Tribe category. On 15/09/2022, the Committee received the petitioner caste certificate and the documents through the Principal, Kendriya Vidyalaya, Ajni, Nagpur. Since the Committee was of the view that the petitioner's claim was doubtful, the documents submitted by her were forwarded to the Vigilance Cell for a detailed enquiry. The Vigilance Cell thoroughly enquired and submitted its report to the Committee on 13/07/2023. During the enquiry, some adverse entries were found against the petitioner's claim. The Committee vide show-cause notice dated 26/07/2023 called upon the petitioner to submit her explanation of the said adverse entries. In response, she submitted an explanation before the Committee on 10/08/2023. Thereafter, the petitioner's father and cousin's grandfather appeared before the Committee for a hearing. After affording an opportunity of hearing the petitioner and her father, considering the Vigilance Cell report and the documents on record, the respondent Committee vide impugned order dated 28/08/2023 rejected the tribe claim of the petitioner. Hence, this petition.

(4) Ms. Rashi Nagrare, learned Counsel for the petitioner while assailing the impugned order, submitted that the petitioner has produced documents from 1903 to 1988 of which genuineness, authenticity and existence of those documents neither denied nor has it been found that those documents are bogus or fabricated. Out of them, some documents are from the pre-constitutional era, wherein "*Mana*" entries have been recorded. The Committee discarded those entries but gave undue importance to other documents and rejected the claim. In fact, other entries, such as "*Mani, Bhormani, Mane and Mani Kunbi*", mentioned in the pre-Constitutional era documents, are also included in the "*Mana*" schedule Tribe. Therefore, rejection of the petitioner's claim by the Committee is illegal and liable to be set aside.

(5) In order to substantiate her contentions, learned Counsel for the petitioner has relied upon the judgment in the matter of ***Priya Pramod Gajbe vs. The State of Maharashtra and others*** reported in **(2023) 9 S.C.R. 1261** and canvassed that in view of the observations in the aforesaid judgment "*Mani, Bhormani, Mane and Mani Kunbi*" has to be read as "*Mana*" Schedule Tribe. Perhaps these entries might have been wrongly inserted or incorrectly written. Hence, she submitted that the said judgment squarely covers the petitioner's case.

(6) Apart from above, the petitioner propounded that the Committee has granted a validity certificate in favour of her father (Govinda) and cousin uncle (Pramod); therefore, as per the law laid down in the case of ***Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee and others*** reported in ***2010(6) Mh.L.J. 401***, she is also entitled to get validity certificate. Accordingly, she submitted that the rejection of her claim by the respondent Committee is contrary to the law laid down by the Apex Court, as well as this Court, as referred to above. Hence, she has urged for allowing the petition.

(7) While countering the above submissions, Mr. Thakre learned Addl. Govt. Pleader has vehemently argued that during the Vigilance Cell enquiry, the Vigilance Cell discovered adverse entries from 1903 to 1959 pertaining to great-great-grandfather, great-grandfather, grandfather and cousin grandfather wherein their caste have been recorded as "*Mani, Bhormani, Mane and Mani Kunbi*", those documents are oldest one and therefore, the Committee has rightly relied on those documents and rejected the claim of the petitioner observing that the petitioner has failed to discharge the burden lies on her under Section 8 of The Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of

Issuance and Verification of) Caste Certificate Act, 2000 (hereinafter referred to as '**Act of 2000**').

(8) He further canvassed that the petitioner has not disputed those entries but only contended that those entries are included in the "Mana" caste. So also, it is not her defence that, by mistake, the entries have been written as stated above, and therefore, he submitted that the entries have to be read as they are. Thus, he submitted that the Committee was justified in rejecting the claim, and no interference was required; hence, he urged for the dismissal of the petition.

(9) We have appreciated the rival submissions and perused the record, as well as the judgment relied upon by the learned Counsel for the petitioner.

(10) At the outset, it is evident that the petitioner, in support of her claim, has submitted eleven documents. Out of them, five documents are from the pre-constitutional era from 1903 to 1948, and two are from 1959. Those documents pertain to great-great-grandfather, great-grandfather, grandfather, and cousin-grandfather. In all those documents, their caste had been recorded as "**Mani, Bhormani, Mane and Mani Kunbi**". None of the entries in those seven documents depict the "**Mana**" caste. In fact, the petitioner herself

produced documents from 1903, 1935, 1947, and 1948. In those documents, the caste of their ancestors was recorded as "**Mani, Bhormani, Mane and Mani Kunbi**". Likewise, the Vigilance Cell has discovered the documents of 1941-42, 1943-44 and 1959 wherein the caste of her great-great-grandfather and cousin-grandfather had been recorded as "**Mane and Mani**".

(11) It further reveals that a show-cause notice dated 26/07/2023 was served on the petitioner, to which she replied by her explanation on 10/08/2023. In the said reply/explanation, she has categorically admitted the documents of 1947 and 1948 pertain to her grandfather and cousin's grandfather, wherein their caste had been recorded as "**Mani Kunbi**". She also admitted that the documents of 1903 pertain to her great-great-grandfather (**Balaji**), whose caste had been recorded as "**Bhormani**". She further admitted that the document of 1941-42 pertains to her great grandfather (Vitthal), whose caste had been recorded as "**Mane**". It is to be noted that the petitioner neither denied nor disputed the said entries but only averred that those entries are included in the "*Mana*" Schedule Tribe. Alternatively, she has contended that inadvertently or unknowingly, "**Mani, Bhormani, Mane and Mani Kunbi**" might have been written instead of "*Mana*".

(12) She has categorically stated that she is not relying on the document of 1917 pertaining to one Laxman, and she would never rely on the said document in future as she admits to the falsity of the said document found during the Vigilance Cell enquiry.

(13) It is apparent that the Committee has considered the adverse entries, which were placed on record by the petitioner, as well as Vigilance Cell and noted that the pre-independent era entries in relation to great-great-grandfather, great-grandfather, grandfather, and cousin-grandfather from 1903 to 1948, i.e. regarding the Sale Deed, Birth and Death Register, Revenue Record and School Leaving Register have more probative value.

(14) It is a settled principle that a person gets his/her caste by birth. As such, it is a settled position of law that pre-independent era documents have more probative value than subsequent documents. As such, the pre-independent era entries about great-great-grandfather, great-grandfather, grandfather, and cousin-grandfather, whereby the entries "**Mani, Bhormani, Mane and Mani Kunbi**" had been recorded, the petitioner owes an explanation about the same, which the petitioner has failed to furnish.

(15) Section 8 of the Act of 2000 casts a burden on the petitioner to prove that the aforesaid entries are incorrect or that she belongs to the “*Mana*” Scheduled Tribe. The facts remain that the petitioner has failed to discharge such a burden. As against, she admitted the said entries by explaining that those entries are included in the “*Mana*” caste. However, we do not find substance in her contention in that regard, as the Hon’ble Supreme Court, in various judgments, has categorically held that entry has to be read as it is.

(16) Similarly, in the case of ***Maroti Vyankati Gaikwad and others vs. Deputy Director & Member-Secretary, The Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati and others*** [***Writ Petition No.12/2022 decided on 17/04/2023***] Full Bench of this Court after considering various judgments of the Apex Court, as well as this Court has categorically held that the Scheduled Tribe “*Mana*” in entry 18, has to be read-only and only “*Mana*” and not as an umbrella or community and therefore tribes with similar/synonymous names or names with prefix/suffix to “*Mana*” cannot claim any social status of a Scheduled Tribe. Para 17.7 of the said judgment reads thus as under:-

17.7. *It would thus be clear that any claim by any tribe, sub-tribe or parts of such tribe or sub-tribe, whether having any similarity, prefix/suffix, synonymity, with the name of the tribe as mentioned in the Presidential (ST) Order 1950, of being included in such Scheduled Tribe, would not be permissible. No enquiry in respect of such a claim is permissible. No enquiry of any nature*

whatsoever is permissible with reference to any material, whatever it may be and in whatever form, to interpret or construe the entries in the Presidential (ST) Order 1950, which have to be read as it is. The Scheduled Tribe 'Mana', in Entry 18, has to be read as only and only 'Mana', and not as an umbrella or community and therefore, tribes with similar/synonymous names or names with prefix/suffix to 'Mana' cannot claim any social status of a Scheduled Tribe. Thus, persons belonging to tribes or sub-tribes such as 'Badwaik Mana', 'Khand Mana', 'Kshatriya Mana', 'Kshatriya Badwaik Mana', 'Kunbi Mana', 'Maratha Mana', 'Gond Mana', 'Mani'/'Mane', 'Mane Ku', 'Mana Ku', 'Ku Mana', 'Mana Kunbi', 'Patil Mana', etc. cannot be held to be included in the Scheduled Tribe 'Mana', in entry 18 in the Presidential (ST) Order 1950 and thus cannot claim the status of a Scheduled Tribe.

(17) Bare perusal of the above dictum, it appears that this Court has categorically held that the persons ***belonging to tribes or sub-tribes such as 'Badwaik Mana', 'Khand Mana', 'Kshatriya Mana', 'Kshatriya Badwaik Mana', 'Kunbi Mana', 'Maratha Mana', 'Gond Mana', 'Mani'/'Mane', 'Mane Ku', 'Mana Ku', 'Ku Mana', 'Mana Kunbi', 'Patil Mana', etc. cannot be held to be included in the Scheduled Tribe "Mana", in entry 18 in the Presidential (ST) Order 1950. Thus, one cannot claim the status of a Scheduled Tribe.***

(18) The petitioner has relied on para 10 of the judgment of the Apex Court in the case of **Priya Gajbe** (supra), which reads thus :

"10. A perusal of the report of the Vigilance Committee itself would reveal that the appellant's great grandfather's birth record shows the caste as 'Mana'. The said document relates to as early as 10th March 1924, while another document of 14th April 1926 shows as 'Mani'. However, it is pertinent to note that the learned counsel for the parties also agrees that there is no caste named 'Mani'. It is thus possible

that there could be some mistake in writing when the caste was written. It is to be noted that the original record is written in Marathi and not in English. As such, such an error is quite possible."

(19) A perusal of the said para reveals that the Apex Court while dealing with the issue of nomenclature as "*Mani*" or "*Mana*", Schedule Tribe had observed that no caste named "*Mani*" is in existence and, therefore, the possibility that there could be some mistake in writing when the caste was written. However, in the case at hand, the petitioner has neither disputed nor denied the said entries but averred that the same are included in entry 18 of the Presidential (ST) Order 1950. *Thus*, it is apparent that the facts in the cited case and the case at hand are distinct.

(20) In such an eventuality, the dictum laid down in the case of **Maroti** (supra) is applicable in the case at hand instead of observations made on facts in the case of **Priya Gajbe** (supra). That being so, the observations made in the case of **Priya Gajbe** are hardly of any assistance to the petitioner in support of her claim.

(21) Apart from the above, the 1903 document, produced by the petitioner wherein her great-great-grandfather's caste was recorded as "**Bhormani**", is the oldest entry, and she is not disputing

the same. Therefore, in view of the law laid down by the Apex Court, in the catena of judgments, the oldest entry has more probative value than the subsequent document. In such circumstances, in our opinion, the petitioner has failed to discharge the burden cast upon her under Section 8 of the Act of 2000. Similarly, the documents of 1941-42, 1943-44 and 1947 pertain to great-grandfather (Vitthal) and grandfather (Mahadev), wherein their caste had been recorded as "**Mane and Mani Kunbi**". Those entries also seem adverse to the petitioner's claim. The petitioner failed to explain those adverse entries despite granting opportunity to her.

(22) In addition to the above, the learned counsel for the petitioner advanced the argument that her father and cousin's uncle granted validity certificates. Therefore, she is entitled to claim the same status. In that regard, after considering the documents on record, the Committee had observed that based on the document of 1917 pertaining to one Laxman, with whom the petitioner or her family has no concern, the petitioner's father had produced the said document on record before the Committee and had obtained the validity certificate. However, the petitioner, vide explanation dated 10/08/2023, categorically stated that she is not relying on the said entry, which was found to be bogus during the Vigilance Cell enquiry. *Besides*, at the time of the petitioner's father Govinda's claim, the document of 1903

relating to the great-great-grandfather was not produced before the Committee wherein the petitioner's great-great-grandfather Balaji's caste was recorded as "**Bhormani**".

(23) Having considered the aforesaid facts, in our view, the Committee was justified in holding that those Validity Certificates are not helpful to the petitioner in support of her claim as the same was obtained by furnishing the bogus document of 1917 and without producing the document of 1903 pertains to great-great-grandfather of the petitioner. Therefore, we do not find any illegality in the said findings. In such an eventuality, the said Validity Certificates are not helpful for the petitioner in support of her claim.

(24) Based on the above discussion, in our view, those Validity Certificates have to be reviewed by the Committee afresh. That being so, the documents produced by the petitioner, as well as collected by the Vigilance Cell, relate to the pre-independent era from 1903 to 1948 and have more probative value than the subsequent document, and the same can be safely relied on for rejecting the tribe claim of the petitioner. The subsequent documents produced by the petitioner are not helpful to substantiate her claim.

(25) As such, from the available documentary evidence, it cannot be said that the petitioner has discharged the burden as contemplated under Section 8 of the Act of 2000, thereby proving that she belongs to the "**Mana**" Scheduled Tribe. *Moreover*, the documents of 1903, 1935, 1947 and 1948 produced by the petitioner have more probative value. As such, there is no reason to disbelieve the said documents or entries, more particularly the caste recorded in those documents, which are related to the petitioner's great-great-grandfather, great-grandfather, grandfather, and cousin-grandfather. *Furthermore*, the observations made in the case of **Priya Gajbe** (supra) are hardly of any assistance to the petitioner in support of her claim. As against, the law laid down by the Full Bench of this Court in the case of **Maroti** (supra) is squarely applicable to the case at hand.

(26) In this background, in our view, the petitioner cannot be said to belong to the "**Mana**" Scheduled Tribe. Rather, the Committee, in our opinion, is justified in recording the finding that the petitioner has failed to demonstrate that she belongs to the "**Mana**" Scheduled Tribe.

(27) The learned Addl. G.P. Mr. Thakre submitted that the committee has already decided to initiate steps to reconsider/review the validity certificates issued in favour of the petitioner's father, Govind, and cousin's uncle Promod.

(28) For all the aforesaid reasons, we are of the view that no case for causing interference in extraordinary jurisdiction is made out. Rather, we find substance in the submissions of learned Addl. Govt. pleader in that regard.

(29) As such, there is no substance in the petition, and the petition is bereft of any merit, and the same is dismissed. No order as to costs.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]

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