



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

WRIT PETITION NO. 1192/2022

Ku. Samiksha Vilas Dharne,
aged 21 years,
Occupation – Student,
Sathawane layout ward No.6
Borgaon Meghe, Tah. Dist. Wardha 442001. ... Petitioner.

Versus

The Scheduled Tribe Certificate Scrutiny Committee,
Nagpur,
Through its Member Secretary,
Giripeth, Nagpur – 440 010. ... Respondent.

...

Mr. Narayan D. Jambhule, Advocate for petitioner.
Mr. Hrishikesh Marathe, Assistant Government Pleader for respondent.

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CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.
DATED : 9th January, 2024

ORAL JUDGMENT (Per Nitin W. Sambre, J)

1. Rule. Rule made returnable forthwith. Mr. Marathe,
learned Assistant Government Pleader waives notice for the respondent.
Heard finally by consent of the parties.

2. The challenge in this petition is to the order dated 2nd July, 2018 passed by the respondent – the Scheduled Tribe Certificate Scrutiny Committee, Nagpur.

3. The case of the petitioner is that he belongs to “Mana” scheduled tribe and was accordingly issued a caste certificate on 18th September, 2017 as that of belonging to “Mana” scheduled tribe.

4. Since the petitioner, at the relevant time, was studying in a college and was admitted against the seat reserved for scheduled tribe category, her claim was forwarded for verification through an application dated 10th January, 2018 to the respondent - Scrutiny Committee.

5. The Committee, after considering the documentary evidence submitted by the petitioner, the Vigilance Cell report dated 27th June, 2018 having noticed adverse caste/tribe entries negated the claim of the petitioner, vide order impugned dated 2nd July, 2018, and as such, this petition.

6. The counsel for the petitioner Mr.Jambhule while questioning the order impugned would urge that after the petitioner completed her

education from Jankidevi Bajaj College of Science, she is now recruited as Health Worker with the State Government/Zilla Parishad. According to him, in support of the claim put forth by the petitioner, the petitioner has placed on record the documents depicting the caste entries as “Mana” in relation to her father, her uncle and her grandfather wherein the entries are shown to be “Mana”. He would claim that as the Committee has not accepted the claim of the petitioner, referred the same to the Vigilance Cell and accordingly, the Vigilance Cell conducted an inquiry in which they have noticed the entries “Mani” in relation to the blood relations of the petitioner. According to him, “Mani” is not a caste anywhere recognized in any of the Caste or Tribe Order. He would claim that if the record of the petitioner particularly, in relation to her father, her uncle and her grandfather speaks of entries “Mana”. The Committee after having read the documents in support of the claim of the petitioner for grant of validity certificate, it is not open for the Committee to read tribe/caste entries, “Mani” to the detriment of the petitioner.

7. So to substantiate the aforesaid contention of “Mani” is not a caste, he has drawn support from the judgment of the Apex Court in the matter of *Priya Pramod Gajbe Vs. State of Maharashtra and others* reported in *2023 LawSuit (SC) 816, particularly, paragraph 10.*

According to him, it is only by mistake in writing when the caste entries are recorded as “Mani” instead of “Mana”. Apart from above, his contentions are the Vigilance Cell Inquiry conducted by the respondent-Committee and the applicability of the affinity test based on the same cannot be formed to be the sole basis for negation of the claim, in view of the judgment of the Apex Court in the matter of *State of Maharashtra Vs Mana Adim Jamat Mandal*, reported in (2006) 4 SCC 98.

8. Mr. Jambhule, learned counsel appearing for the petitioner would invite attention of this Court to the validity granted in favour of Dilip Wamanrao Dharne, who happened to be real brother of the father of the petitioner; so also Praniket Arun Dharne that is her first cousin.

9. As such, based on the judgment of this Court in the matter of *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and ors.* reported in 2010 (6) Mh.L.J. 401, he would claim that the Committee erred in rejecting the tribe claim of the petitioner.

10. While countering the aforesaid submissions, the learned Assistant Government Pleader appearing for the respondent would urge

that even if the blood relations of the petitioner are holding the validity certificate that by itself will not entail the petitioner to claim the validity held the document based on such validity was granted are found to be not available for verification and perusal of the Committee. So as to substantiate the same, he has drawn support from the observations in the impugned order.

11. Apart from above, according to learned Assistant Government Pleader, it was never the case of the petitioner before the Committee that the caste entry as, “Mani” in the blood relations of the petitioner was a mistake. He would further claim that the benefit which is sought to be drawn by the petitioner from the judgment in the matter of *Priya Pramod Gajbe Vs. State of Maharashtra and others* (supra) is not available in the facts of the present case. As such, drawing support from the adverse entries found in the documentary evidence of the blood relations of the petitioner, he has sought dismissal of the petition.

12. We have considered the rival claims.

13. The perusal of the impugned order depicts that the petitioner in support of her claim for grant of validity has relied on the documents pertaining to her father, her grandfather and her uncle. The

oldest entry, which is brought on record, is that of “Zingu”, great grandfather of the petitioner. The entry as on 5th August, 1938 in the birth record is noticed to be that of “Mana”. Apart from above, the validity certificates are issued in favour of her uncle Dilip Dharne and her cousin brother of the petitioner namely Praniket Dharne, which are produced on record.

14. As such the fact remains that the petitioner has produced on record the pre-constitutional era entry of “Mana” of the great grandfather Zingu.

15. As against above, the Vigilance Cell has considered the caste entries of 1950 to 1973 of that of her cousin grandfather etc. The fact remains that the caste entries recorded in the caste column of the relations which were produced by the Vigilance Cell speaks of entry “Mani”. The Apex Court in the matter of *Priya Pramod Gajbe* in para 10 (cited supra) has already observed that in absence of there being caste “Mani” the entry “Mani” can be termed by mistake written so and has to be read as “Mana”. As such, the case of the petitioner to that extent needs to be accepted.

16. That uncle of the petitioner (real brother of the father of the petitioner) holds the validity dated 25th August, 2010, which was duly produced on record of the Committee. The issuance of said validity is not the fact in dispute. The Committee has chosen to discard the said piece of document on the ground that the documentary evidence based on such validity was granted are not available.

17. Once the petitioner has produced the validity certificate in relation to her blood relations, it has to be held that the petitioner has discharged his burden, as contemplated under Section 8 of the Maharashtra Scheduled Castes, 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. Since the petitioner has discharged his initial burden, it was for the Committee to observe and record supportive findings based on reasonings and evidence that such certificate issued to the uncle of the petitioner was by mistake.

18. Apart from above, if such certificate holds the field, as the Committee has not taken or initiated any action for cancellation of the same in the light of the observations of the judgment of this Court in

the matter of *Apoorva d/o Vinay Nichale* (supra), the same is binding on the Committee so as to substantiate the claim of the petitioner for grant/issuance of validity.

19. In the aforesaid backdrop, merely because the Vigilance Cell report is adverse to the interest of the petitioner that by itself will not entail the Committee to reject the claim of the petitioner based on the entries “Mani”.

20. Apart from above, the validity certificate granted in favour of Dilip Wamanrao Dharne sufficiently justifies the claim of the petitioner being blood relations of the said Dilip Wamanrao Dharne.

21. In this backdrop, this Court has to observe that the petitioner belongs to “Mana” Scheduled Tribe and in this background, the order impugned cannot be said to be sustainable.

22. That being so, the order dated 2nd July, 2018 impugned in the present petition is hereby quashed and set aside.

23. It is declared that the petitioner belongs to “Mana” Scheduled Tribe.

24. We direct the respondent - Committee to issue caste validity certificate in favour of the petitioner as she belonging to “Mana” Scheduled Tribe within a period of four weeks from today.

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

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Ambulkar