



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

WRIT PETITION NO. 5082 OF 2024

Sahil S/o Narayan Dodke
Age 18 years, Occ. Service,
R/o Khandate Layout,
Near Khandate Sabhagruh Masala,
Tah.Hinganghat, Dist. Wardha

.. **Petitioner**

Versus

1. The Vice-Chairman / Member-
Secretary, Scheduled Tribe Caste
Certificate Scrutiny Committee,
Adiwasi Vikas Bhavan, Giripeth,
Nagpur

.. **Respondent**

2. ~~The Director, AIIMS New Delhi,
AIIMS Ansari Nagar, East Aurobindo
Marg, New Delhi (NCT) 110029~~

**Deleted as per
Registrar Judicial
Court's dated
20/09/2024**

Ms. Smita Dashputre, Advocate for Petitioner.

Mr. H.D.Marathe, Assistant Government Pleader for respondent.

**CORAM : BHARATI DANGRE &
ABHAY J. MANTRI, JJ.**

DATED : OCTOBER 03, 2024.

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

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

(2) The challenge is raised to the order dated 16/08/2024 passed by the respondent Caste Scrutiny Committee, Nagpur (for short- '*the Committee*'), whereby the claim of the petitioner that he belongs to "*Mana*" Scheduled Tribe came to be rejected.

(3) It is the case of the petitioner that he belongs to the "*Mana*" Scheduled Tribe. Accordingly, on 10/10/2017, Sub-Divisional Officer Hinganghat issued a caste certificate in his favour. Petitioner, through Principal Navodaya Vidyalaya, Pimple Jagtap, Tahsil Shirur, District Pune, submitted his caste certificate along with the relevant documents to the Committee on 28/09/2022 for its verification.

(4) Since the Committee was dissatisfied with the claim of the petitioner, it forwarded the same to the Vigilance Cell under Rule 12(2) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 for a detailed enquiry. Accordingly, the Vigilance Cell conducted a thorough enquiry and submitted its report to the Committee on 24/06/2024, observing that the petitioner has failed to produce cogent documents in support of his claim to demonstrate that he belongs to "*Mana*" Scheduled Tribe.

As a sequel to the above, the petitioner was served with a show-cause notice dated 02/07/2024 and called upon to explain the adverse observations against his claim in the Vigilance Cell report.

(5) In the meantime, the petitioner has filed Writ Petition No.3961/2024 before this Court, wherein this Court, vide order dated 23/07/2024, directed the respondent Committee to decide the matter within a period of four weeks.

(6) After considering the Vigilance Cell report, the petitioner's explanation, and the documents on record, the Committee, vide impugned order, invalidated the petitioner's claim that he belongs to the "*Mana*" Scheduled Tribe; hence, the petitioner has preferred this petition.

(7) Ms. Smita Dashputre, learned Counsel for the petitioner, vehemently argued that the petitioner, in support of his claim, has produced in all seven documents of his relatives/ancestors, out of which one document is of the year 1940 pertains to his great-grandfather, wherein his caste was recorded as "*Mana*", however, the Committee has erred in discarding the said document without assigning any reason. So also, the respondent Committee has not considered the validity certificate issued in favour of the petitioner's father while

considering the documents on record. The documents produced by the petitioner on record pertain to his ancestors and denote that they belong to the “*Mana*” Scheduled Tribe. However, without considering those documents and the validity certificate, the Committee has erred in holding that the petitioner has neither produced the documents prior to the pre-Constitutional era nor proven the affinity test and, therefore, rejected the petitioner's claim.

(8) Learned Counsel has drawn support from the judgment of the Hon’ble Apex Court in the case of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and others*** reported in **2023(2) Mh.L.J.785** as well as the judgment of this Court 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**, and submitted that in view of the law laid down in the aforesaid judgments, the petitioner is entitled to get the validity certificate. Hence, she urged to allow the petition.

(9) *Per contra*, Mr. Marathe, the learned Assistant Government Pleader, resisted the petition on the ground that the petitioner had failed to prove the genuineness of the document of the year 1940 nor produce any document before 1950. Similarly, the petitioner has failed to prove the affinity test that he belongs to the

"*Mana*" Scheduled Tribe; therefore, the impugned order passed by the respondent Committee is just, legal, and proper, and no interference is required in it. Hence, he urges the dismissal of the petition.

(10) We have appreciated the rival submissions, perused the impugned order and documents placed on record, and gone through the judgments relied upon by the Counsel for the petitioner.

(11) On perusal of the impugned order, it seems that the Committee has rejected the claim of the petitioner mainly on three grounds that the petitioner has failed –

- (i) to demonstrate that the document of the year 1940 pertains to his relative,
- (ii) to produce documents before 1950, and
- (iii) to prove affinity test.

(12) At the outset, it appears that the petitioner, in support of his claim, has produced seven documents of his relatives/ancestors, wherein their caste has been recorded as "*Mana*", out of which one document dated 02/09/1940 pertains to his great-grandfather, namely, *Dasarya*, wherein his caste has been recorded as "*Mana*". The document is an extract of the birth register, which depicts one daughter born to *Dasarya*. While giving the family tree, the petitioner and his father have categorically mentioned the names of *Dasarya* as great-

grandfather and Parvati as paternal grandmother. Neither the Committee nor the Vigilance Cell disputed the said family tree but only observed that the entry of 1940 is single, in which neither the father's name nor surname of Dasarya is mentioned, and, therefore, the said entry was discarded. It is worth noting that the said entry categorically depicts that daughter Parvati was born to Dasarya on that day. Consequently, we do not find substance in the reasons recorded by the Committee for discarding the said document. As against, the said document clearly denotes that the great-grandfather Dasarya is none other than the great-grandfather of the petitioner.

(13) The second reason the Committee gave is that the Vigilance Cell had gone to Faridpur village to verify the said entry. There, they found the entry in the birth register only, but it was noticed in worn condition. Therefore, the authority could not provide a certified copy of the said document.

(14) It is pertinent to note that the Vigilance Cell neither denied nor disputed the said entry but only observed that the said document was in worn condition. It does not mean that the said document was/is not in existence or that it is not helpful to the petitioner in substantiating his claim. Therefore, we do not find substance in the finding recorded by the Committee in that regard.

(15) The other documents of the years 1976 and 1980 pertain to the petitioner's father, paternal aunt, and grandfather of the petitioner, wherein their caste has been recorded as "*Mana*". The Committee has not disputed those documents.

(16) Thus, it appears that the petitioner, to substantiate his claim, has produced a document of the year 1940 and other documents wherein his relative's caste has been recorded as "*Mana*" Scheduled Tribe. Moreover, as per the law laid down in the case of ***Maharashtra Adiwasi Jamat*** (supra), the document of the pre-constitutional era has the highest probative value. Likewise, the affinity test cannot be termed as a litmus test. Therefore, the finding recorded by the Committee appears to be contrary.

(17) In addition to the above, the petitioner has produced one more crucial document, a validity certificate issued in favour of his father. However, the respondent Committee ignored the same, observing that while issuing said validity certificate, the Committee had not conducted enquiry through Vigilance Cell about the document of the year 1940 and, based on the said document, issued a validity certificate.

(18) As discussed above, we do not find substance in the findings recorded by the Committee in that regard. On the contrary, in our view, as per the dictum laid down in the case of **Apoorva Nichle** (supra), the respondent Committee ought not to have rejected the claim of the petitioner without assigning any cogent reason, but it was incumbent on the Scrutiny Committee to issue validity certificate in favour of the petitioner.

(19) Besides in the case of **Maharashtra Adiwasi Jamat** (supra), the Hon'ble Apex Court has held that unless the Validity certificate is obtained by fraud or misrepresentation, etc., by the blood relative of the petitioner, where the relationship pleaded by the petitioner is established, the Committee is not required to undertake the affinity test etc.

(20) Considering the above discussion, it is evident that the petitioner, to substantiate his claim, has produced the documents of the year 1940 and the validity certificate issued in favour of his father. Moreover, the respondent Committee has not challenged the validity certificate issued in favour of the father of the petitioner; therefore, based on the above documents, the petitioner demonstrates that he belongs to the "*Mana*" Scheduled Tribe and, Consequently, he is entitled to grant a validity certificate in his favour.

(21) In this background, in our view, the Committee has erred in passing the impugned order, and therefore, it cannot be sustained in the eyes of the law. That being so, we deem it appropriate to allow the petition. As such, we pass the following order:-

ORDER

- a) The Writ Petition stands allowed.
- b) The impugned order dated 16/08/2024, passed by the respondent Committee, is hereby quashed and set aside.
- c) It is hereby declared that the petitioner belongs to the "**Mana**" Scheduled Tribe, and all the benefits accruing thereof shall be extended to him based on the declaration.
- d) The respondent Committee is directed to issue a validity certificate in favour of the petitioner within a period of four weeks from the date of production of a copy of this judgment.

Rule is made absolute in the above terms.

[**ABHAY J. MANTRI, J.]**

[**BHARATI DANGRE, J.]**