



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

WRIT PETITION NO. 7933 OF 2022

- 1) Shri Pawan Purushottam Shrirame,
Aged about 28 years,
Occupation – Student.
- 2) Shri Prashant Purushottam Shrirame,
Aged about 30 years,
Occupation – Private Business,

Both R/o Nilaj, Post-Amgaon,
Tahsil-Pauni, District-Bhandara.

.... PETITIONERS

VERSUS

- 1) Committee for Scrutiny & Verification
of Tribe Claim, through its
Deputy Director (Research) & Member
Secretary, Schedule Tribes Caste Scrutiny
Committee, Nagpur Division, Nagpur.
- 2) ~~Kamla Nehru Mahavidyalaya,
Sakkardara Chowk, Nagpur, through
its Principal.~~

- (Deleted as per
order dt. 10-04-23)

.... RESPONDENTS

Mr. A.Z. Jibhkate, Counsel for the petitioners,
Mr. J.Y. Ghurde, A.G.P, for the respondent/State.

CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.
DATED : 26th JUNE, 2024

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

Rule. Rule made returnable forthwith. Heard finally with
consent of the learned Counsel for the parties.

2. The challenge is to the order dated 06-08-2018 passed by the respondent-Scheduled Tribe Caste Certificate Scrutiny Committee (for short "*the Committee*"), thereby invalidating the claim of the petitioners that they belong to '*Mana*' Scheduled Tribe.

3. Petitioner No.1 and Petitioner No.2 are the real brothers. They claim that they belong to the '*Mana*' community. Accordingly, they obtained Caste Certificates from the Sub-Divisional Officer, Bhandara, on 27-08-2018 and 16-10-2018, respectively, that they belong to the '*Mana*' Scheduled Tribe. On 29-01-2011 and 07-10-2012, they submitted their claims for verification through College, Bhivapur, to the Committee along with the certificates and documents.

4. Since the Committee was dissatisfied with the documents produced by the petitioners, it forwarded their claims to the Vigilance Cell for conducting an enquiry under Rule 12(2) 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 (for short "*the Act*"). During the enquiry, the Committee found one document of the year 1977 pertains to the father of the petitioners wherein his caste is shown as '*Mani*'; therefore, a show

cause notice was issued to them to explain the adverse entry. After conducting the enquiry, the Vigilance Cell submitted its reports to the Committee on 12-7-2011 and 21-2-2013.

5. The petitioners filed their explanation on 20-04-2013 and 21-02-2013 with the Committee. After that, again in 2018, the Committee forwarded the petitioners' claim to the Vigilance Cell for re-enquiry. Accordingly, the Vigilance Cell conducted the enquiry and submitted its report on 31-07-2018 to the Committee. During the re-enquiry, they found two documents from the years 1960 and 1964 pertaining to the petitioners' paternal aunt and father, whose caste was mentioned as '*Mani*'. Therefore, again, the Committee served the show cause notice to the petitioners, calling upon their explanation about the said adverse entries. Pursuant to that, petitioner No.1 and his father appeared before the Committee and filed their explanation.

6. The Committee, after considering the vigilance cell reports, the statement of the petitioner's father, and the material placed on record, vide impugned order dated 06-08-2018, invalidated the petitioners' caste claim that they belong to the '*Mana*' Scheduled Tribe.

7. Mr. A.Z. Jibhkate, learned Counsel for the petitioner, has vehemently contended that in support of their claim, they have produced as many as thirty-five documents wherein, except document No.2, in all documents, their caste is shown as '*Mana*'. He further canvassed that they produced the documents of the years 1926, 1966, and 1971 pertaining to their great-great-grandfather and paternal aunts, whose caste is shown as '*Mana*'. Those documents are prior to the document of the year 1977 (Document at Sr.No.2) wherein the caste of their father is shown as '*Mani*' and, therefore, he submitted that the document of the year 1926 is a pre-constitutional document. It has more probative value than the subsequent documents. He has further argued that in view of the observations made in the case of *Priya Pramod Gajbe v. State of Maharashtra and Others, 2023 10 Scale 426*, there is no caste named as '*Mani*'; therefore, he has submitted that the said entry would not hamper the case of the petitioners and the petitioners have proved that they belong to the '*Mana*' Scheduled Tribe.

8. *Per contra*, the learned Assistant Government Pleader Mr. J.Y. Ghurde submitted that the Vigilance Cell, during the enquiry, found three documents of the years 1960, 1964 and 1977 pertain to the father and paternal aunt of the petitioners wherein their caste is mentioned as '*Mani*' and, therefore, the petitioners have failed to

explain the said adverse entries. Hence, he canvassed that the documents produced by the petitioners were not conclusive while deciding their claims. They failed to prove the affinity test. Therefore, he urged for the dismissal of the petition.

9. We have appreciated the rival contentions of the parties and perused the record and judgment in the case of *Priya Pramod Gajbe*.

10. It appears that the petitioners to substantiate their claim have produced thirty-five documents in support of their claim. These documents pertain to his great-great-grandfather, great-grandfather, father, paternal aunts, and themselves. Except for the document at Sr.No.2 of the year 1977, which relates to his father, in all the remaining documents, their caste is mentioned as '*Mana*'. More particularly, the document at Sr.No.12 pertains to his great-great-grandfather Pandu, wherein the entry dated 25-02-1926 depicts that Pandu had one son. The Vigilance Cell or the Committee neither disputed nor denied the said entry. On the contrary, after the verification, the Vigilance Cell did not repudiate the said entry; therefore, there is no reason to discard the said entry. Besides, the said entry is from 1926, i.e. prior to the pre-constitutional era, and the said entry has more probative value than the subsequent documents.

11. The Vigilance Cell and the Committee relied on three documents from 1971 and 1977 pertaining to the petitioners' father and paternal aunt, whose caste is shown as 'Mani'. Therefore, the Committee observed that the entries in other documents cannot be said to be conclusive in substantiating the petitioners' claim. The petitioners have failed to prove that they belong to the Mana Scheduled Tribe.

12. It is pertinent to note that the Hon'ble Apex Court, in the case of Priya Pramod Gajbe, in paragraph 10, has categorically discussed the word '*Mani*' and observed that no caste is named '*Mani*'. Therefore, while considering the discrepancy above, it would be proper to reproduce paragraph No.10 of the said judgment, 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, and learned counsel for the parties also agree, 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."

13. A bare perusal of paragraph 10, it seems that the Hon'ble Apex Court has categorically observed that "*there is no caste named as 'Mani'. It is thus possible that there could be some mistake in writing when the caste was written*". Therefore, in view of the above

observations, in our view, '*Mani*' is not a caste, and there is a possibility that the same could be written mistakenly in the Marathi language as '*Mani*' instead of '*Mana*'. Thus, in our opinion, some adverse entries in subsequent documents could not vitiate the petitioners' claim.

14. Moreover, in the judgment, the Hon'ble Apex Court has categorically held that "*the affinity test cannot be applied as a litmus test for establishing the link of the petitioners with Scheduled Tribe*". Therefore, we do not find substance in the contentions of the learned Assistant Government Pleader that due to the said adverse entries, the petitioners failed to prove that they belong to the '*Mana*' a Scheduled Tribe, or they failed to prove the affinity test and, therefore, their claims have rightly rejected.

15. Having considered the discussion above, it clearly appears that the petitioners in support of their claim have produced thirty-five documents, out of which one document is of the year 1926, i.e. of the pre-constitutional era, which has more probative value. The said document is sufficient to substantiate their claim that they belong to the '*Mana*' Scheduled Tribe. In view of this, the petitioners are entitled to claim the validity certificates.

16. Thus, in our opinion, the Committee has erred in rejecting the petitioners' claim. That being so, we deem it appropriate to allow the petition. As such, we hereby quash and set aside the impugned order dated 06-08-2018 passed by the Committee. It is held and declared that the petitioners belong to the “*Mana*” Scheduled Tribe. The Committee is directed to issue Validity Certificates to the petitioners within a period of eight weeks from the production of a copy of this judgment.

17. Rule is made absolute in the aforesaid terms.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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