



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

WRIT PETITION NO.8481 OF 2023

Miss Shanvi D/o Sunil Nagose
Aged about 19 years, Occ. Student
R/o Somwaripeth Qtr No.46/3,
Near Ganesh Mandir, Nagpur.

...PETITIONER

..V E R S U S..

1. Deputy Director and Member
Secretary, Schedule Tribe Certificate,
Scrutiny Committee, Nagpur Giripeth,
Near RTO Office, Nagpur.
2. Yashwantrao Chauhan College of
Engineering, Wanadongari, Tah.
Hingna, Dist. Nagpur,
Through its Principal.

...RESPONDENTS

Shri Ananta Ramteke, Advocate for petitioner.
Shri I.J. Damle, AGP for respondent no.1.
Ms Aarti Singh, Advocate for respondent no.2.

CORAM :- AVINASH G. GHAROTE &
M.W. CHANDWANI, JJ.

RESERVED ON :- 14.08.2024.
PRONOUNCED ON :- 25.10.2024.

JUDGMENT (PER : M.W. CHANDWANI, J.):

. **Rule.** Rule made returnable forthwith. Heard finally
with the consent of both counsel.

2. The petition challenges the order dated 23.08.2023
passed by respondent no.1 - Scheduled Tribe Certificate Scrutiny

Committee, Nagpur, whereby the claim of the petitioner as “Mana”, a scheduled tribe has been invalidated.

3. The petitioner, through the Principal, Pandit Bachchharaj Vyas Vidyalaya and Junior College, Rajabaksha, Ajani, Nagpur, has forwarded her tribe claim towards ‘Mana’ for verification and issuance of validity certificate, which is listed at serial no.18 of the Constitution (Scheduled Tribes) Order, 1950. The petitioner filed various documents in support of her claim.

Respondent no.1– Scrutiny Committee got her claim verified through Vigilance Cell. After relying on the contra-entries in the documents found during vigilance enquiry, respondent no.1 invalidated the claim of the petitioner that she belongs to Mana, a Scheduled Tribe. Feeling aggrieved, the said order is challenged by way of present writ petition.

4. The main contention of the petitioner is that her father Shri Sunil Anandrao Nagose has been issued validity certificate in respect of ‘Mana’ Scheduled Tribe, by respondent no.1 – Scrutiny Committee on 13.01.2021. It is further contended that her real sister – Ms Jayashree Sunil Nagose, has also been

issued validity certificate in respect of 'Mana' Scheduled Tribe, by respondent no.1 – Scrutiny Committee on 23.07.2020. So also, petitioner's cousin uncle – Shri Vilas Nagose and grandmother – Mrs. Satyabhama Gadmade have also been issued validity certificate in respect of 'Mana' Scheduled Tribe on 22.01.2008 and 03.11.2007 respectively, however, the petitioner being blood relative has been denied validity certificate.

5. Perusal of the impugned order goes to show that the Scrutiny Committee after noticing contra-entry as 'Mani' in the documents found in the Vigilance enquiry invalidated the claim of the petitioner.

6. The petitioner has relied upon sale-deed of great-grandfather of the petitioner – Sadava Adku Mana dated 02.06.1950 showing entry as 'Mana'. This document has been discarded only on the ground that oldest caste entries of the petitioner's family was recorded as 'Mani' in the year 1950. In fact, the sale-deed relied by the petitioner is of 02.06.1950 whereas the entry of birth date of Anandrao Sadba dated 19.06.1943 is subsequent to the sale-deed. Thus, in oldest pre-constitutional document i.e. sale-deed the caste of the grandfather and the great-

grandfather of the petitioner is mentioned as 'Mana'. When the document shows the tribe as 'Mana', in specific terms, discarding the same on the basis of a signature, would clearly not be justified as many a times, the same is indecipherable. The reason given by the Scrutiny Committee for discarding it is not justifiable. This document being pre-constitutional document has more probative value.

7. Indisputably, Sunil Nagose, the father of the petitioner, Jayashree Nagose, sister of the petitioner and Vilas Nagose, cousin uncle of the petitioner, have been granted validity certificate by respondent no.1-Scrutiny Committee. Very surprisingly the Scrutiny Committee has granted validity to Jayashree Nagose on the very same documents, which have been discarded in the case of petitioner. Rather, validity certificate was granted to Jayashree Nagose after conducting Vigilance Enquiry. It is to be mentioned here that in *Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others*¹, wherein this Court has expressed that if prior validity is issued to a blood relative in the family then an applicant is also entitled for validity.

1 2010 (6) MhLJ 401

8. It is to be mentioned here that the blood relative of the petitioners i.e. Vilas Nagose (cousin uncle), Jaishree (sister) and Sunil (father) have been issued show-cause notices as to why the order of validity issued in their favour should not be recalled. Recently, in case of *Rashmi w/o Shyamkumar Barve Vs. Deputy Commissioner & Member, District Caste Certificate Scrutiny Committee, Nagpur and others*¹, the Division Bench of this Court in para 15.15 and 15.16 has held as under:

“15.15. It will thus have to be held that the CSC, has the power to recall an order/decision, granting validity, in case it is found that the same was obtained by practicing a fraud upon the CSC, which may include non-disclosure or suppression of material facts and/or documents, non-disclosure of rejection of validity to a sibling or a member in the genealogy, etc. It is, however, material to note that merely because the validity was granted without a vigilance enquiry, that would not by itself, be sufficient to recall the order/decision granting validity, as that is permissible to the CSC, in terms of the Caste Certificate Rules, 2012.

15.16. A caveat, however, needs to be sounded inasmuch as not every such decision is susceptible to a recall, as it cannot be done as a matter of course, for in order to exercise a power to do complete justice, it would be necessary for the Court/judicial/quasi-judicial authority to

1 Writ Petition No.2155/2024 (Nagpur Bench) dated 24.09.2024

at least prima facie come to an opinion, on the basis of material being made available to it, by recording short reasons, that a case for recall, on the ground of fraud, is spelt out and only then, to issue notice to the other party to show cause as to why the decision ought not be recalled and that too, only upon hearing the other side and taking such material on record as would be permissible, to arrive at a conclusion by recording reasons that a recall is necessary and only then do so. The power of recall therefore is one, which cannot be routinely used, but can be only done, where there is no remedy available to the party aggrieved to redress its grievance. It is, therefore, needless to state that where the wrong can be addressed in an appeal or revision, then that would be a ground for not exercising such a power of recall, for then such a grievance can be readily addressed in appeal/revision, nor can the same be exercised where a power of review is there.”

9. In the present case, the notices have been issued to Vilas and Sunil mainly on the ground that Vigilance was not conducted in their cases. Rather, in case of Jaishree after considering the vigilance report, the validity to Jaishree was granted. Based on the validity of Jaishree only the validity was granted to Sunil. Be that as it may, the fact remains that till the date the validity of Vilas, Jaishree and Sunil has not been revoked. Rather, explanation (3) of Rule 16 of the Maharashtra Scheduled

Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 reads as under:

“16. Information to be supplied by applicant.

Explanation. -

(3) If an applicant submits the application alongwith the caste validity certificate of his father in blood relation or real uncle or any other blood relatives from paternal side and if he has applied for the same caste of which above mentioned validity certificate is issued, in such case the name of such applicant alongwith the caste validity certificate of his father in blood relation or real uncle or any other blood relatives from paternal side submitted by him will be displayed on the web site of Dr. Babasaheb Ambedkar Research And Training Institute, Pune (BARTI) as will it will be displayed on the notice board of Committee. It will be conveyed to register objection if any about the request of an applicant within 15 days from such publication.

If no objections or complaints are received with regard to such application then District Caste Certificate Scrutiny Committee will issue caste validity certificate without asking for other documents of proof by considering that validity certificate as an important evidence.

If any objections or complaints are received on the application, the District Caste Certificate Scrutiny Committee will make an enquiry within the maximum

period of sixty days from the receipt of such complaints or objections.

If no substance is found the District Caste Certificate Scrutiny Committee will issue the validity certificate to the applicant. If any substance is found in objections or complaints the District Caste Certificate Scrutiny Committee will take decision about claim of the caste verification of concerned applicant by following prescribed office procedure and the decision about the caste validity will be taken.”

10. Above all, the Supreme Court in the case *Priya Pramod Gajbe Vs. State of Maharashtra*¹ has observed in para 10 as under:

“10. A perusal of the report of the Vigilance Committee itself would reveal that the appellant’s great grandfathers birth record show 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 original record is written in Marathi and not in English. As such, such an error is quite possible.”

11. Considering the pre-constitutional and oldest entry of the year 1950 showing the entry of ‘Mana’ in the sale-deed of

1 2023 SCC OnLine SC 909

great-grandfather of the petitioner and in view of the decisions in the case of *Apoorva* as well *Priya* (supra), we feel that the petition deserves to be allowed. Accordingly, we hereby quash and set aside the impugned order dated 23.08.2023 passed by respondent – Scrutiny Committee in Case No.JC/TCSC/NGP/I/195/31/2023. It is declared that petitioner belongs to ‘Mana’, Scheduled Tribe and the respondent is directed to issue validity certificate of ‘Mana’ Scheduled Tribe within a period of four weeks from today.

Rule is made absolute in aforesaid terms with no order as to costs.

(M.W. CHANDWANI, J.)

(AVINASH G. GHAROTE J.)

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