



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

WRIT PETITION NO. 2559 OF 2024

Shri Piyush Avinash Dhadse, Minor,
(Student, aspirant to pursue 'IIT/BE'
Aged about 17 yrs,
Through his Natural Guardian, Father
Avinash Natthuji Dhadse
R/o Plot No. 47,
Vyankatesh Infra Realities,
Narsala, Nagpur 440 034.

..... **PETITIONER**

...V E R S U S...

The Scheduled Tribe Certificate
Scrutiny Committee, Nagpur,
through its Member Secretary,
Giripeth, Nagpur 440 010
Email: tscngp.maharashtra@gov.in.

.....**RESPONDENT**

Mr. S.P. Khare, Advocate for the petitioner.
Ms. N.P. Mehta, Additional Government Pleader for respondent.

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

<u>CLOSED FOR JUDGMENT</u>	<u>:01.08.2024</u>
<u>PRONOUNCED ON</u>	<u>:20.08.2024</u>

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

1. **Rule.** Heard finally, by the consent of the learned
counsel for the parties.

2. The challenge is to the order dated 31.01.2024 passed by
the Scheduled Tribe Certificate Scrutiny Committee, Nagpur (for

short, “*the Committee*”), which negated the petitioner's claim that he belongs to the “***Mana***” Scheduled Tribe.

3. The petitioner claims to belong to the ‘*Mana*’ Scheduled Tribe. Accordingly, Sub-Divisional Officer Umarkhed has issued a caste certificate in his favour. He passed the JEE (Mains) examination and was pursuing the IIT Engineering Course under the Scheduled Tribe category. Therefore, he submitted the claim along with necessary documents to the Committee through the Principal, Aadarsh Sanskar Vidyalaya, and Junior College, Pipla, Nagpur, on 23.05.2023. Since the Committee felt it necessary to obtain the Vigilance Cell report, it forwarded the documents to the Vigilance Cell for a detailed enquiry. After conducting a detailed enquiry, the Vigilance Cell submitted a report to the Committee on 02.11.2023.

4. During the Vigilance enquiry, the Committee discovered three documents from 1912 to 1917 wherein the caste of the ancestors of the petitioner was recorded as “*Mana Kunbi*”, so the petitioner was called upon to submit his explanation. After hearing the petitioner and considering the Vigilance Cell Report, the petitioner's explanation, and the documents on record, the

Committee vide impugned order invalidated the petitioner's claim of belonging to the 'Mana' Scheduled Tribe. Hence, this petition.

5. Mr. Khare, the learned Counsel for the petitioner, vehemently argued that the petitioner, in support of his claim, had produced as many as nineteen documents, out of which the documents at serial Nos. 1 to 4 are pre-constitutional era documents from the years 1912 to 1917. He further submitted that the Committee had issued a validity certificate in favour of the petitioner's blood relative and, therefore, in view of the law laid down in the case of *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 and Others [2010(6) Mh. L.J. 401]*, the petitioner is entitled to a validity certificate.

6. He has also drawn support from the Government Resolution dated 24.04.1985 whereby caste "Mani, Mana Kunbi and Mane" have been included in entry No. 18 as Mana, and canvassed that the Committee has not considered the said Government Resolution and erred in rejecting the petitioner's claim. Hence, he urged that said entry would not affect the petitioner's claim as a 'Mana' Scheduled Tribe. Furthermore, to substantiate his

contentions, he has filed detailed written notes of argument along with the list of 17 judgments relied upon and submitted that in view of the Government Resolution dated 24.04.1985 and the judgments, the petitioner is entitled to the validity certificate and urged to set aside the impugned order.

7. *Per contra*, Ms. N.P. Mehta, the learned Additional Government Pleader, strenuously argued that during the Vigilance enquiry, the Committee noticed three documents from the year 1912 to 1917 wherein the caste of the ancestors of the petitioner is recorded as “*Mana Kunbi*”, hence, the same being pre-constitutional era documents have more probative value than the subsequent documents. As such, the Committee, after considering the same, has rightly held that the petitioner has failed to discharge the burden cast on him. Therefore, there is no substance in the contention of the learned Counsel for the petitioner in that regard. Lastly, she canvassed that considering the facts in the case in hand, the judgments relied upon by the petitioner are hardly of any use to the petitioner to substantiate his caste claim. On the contrary, this Court dealt with the Government Resolution dated 24.04.1985 in the Case of *Maroti S/o Vyankati Gaikwad and Others Vs Deputy Director &*

Member-Secretary, The Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati and Others (Writ Petition No. 12/2022) (for short-“Maroti Gaikwad”), so she contended that said G.R. does not apply to the case. Hence, she has prayed for the dismissal of the petition.

8. We have appreciated the submissions canvassed by learned counsel for the parties, perused the record, and have gone through the written submissions, citations relied upon, and the Government Resolution.

9. Considering the argument advanced, and the written notes submitted by the learned advocate for the petitioner reveals twofold submissions. The first one is that as per G.R. dated 24.04.1985, the “Mana Kunbi” caste is included in the ‘Mana’ Scheduled Tribe category. Alternatively, he contended that even assuming Entry No. 18 ‘Mana’ does not cover ‘Mana Kunbi’ in such an eventuality, he submitted that his ancestor’s occupation was agriculture; therefore, Kunbi was suffixed to the ‘Mana’ caste; that being so, it would not affect the claim of the petitioner. Secondly, he emphasised that the validity certificate was issued in favour of the

petitioner's uncle, Akshay and, therefore, the petitioner is also entitled to the validity certificate as claimed. So, we would like to deal with both issues one by one.

10. At the outset, it appears that the petitioner has produced as many as nineteen documents in support of his claim, out of which four documents are of the pre-constitutional era, i.e. from the years 1912 to 1917 pertaining to his great-great-grandfather, those are the revenue entries. Out of four documents, in three documents, the caste of his great-great-grandfather was recorded as “***Mana Kunbi***,” and in one document, the caste was recorded as ‘Mana.’ It is pertinent to note that the petitioner has neither denied his relationship with his great-great-grandfather nor specifically disputed the said entries, but his contention was only that his ancestors were agriculturalists; therefore, while recording entry ‘Mana’ Scheduled Tribe, ‘*Kunbi*’ was suffixed to it. In such an eventuality, he drew support from the Government Resolution dated 24.04.1985 to substantiate those entries.

11. It is to be noted that the Full Bench of this Court, in the case of ***Maroti Gaikwad*** (referred supra), after considering

various Constitutional and Full Bench judgments of the Hon'ble Supreme Court, in paragraph Nos. 17.5 to 17.7 has categorically held that the said Government Resolution does not survive as it does not consider the dictum laid down in the judgment in the *State of Maharashtra and another V/s Keshao Vishwanath Sonone (2021) 13 SCC 336*.

12. The paragraph No. 17.7 of the Judgment in the case of *Maroti Gaikwad* reads thus:

"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."

13. Thus, in view of the law laid down by the Full Bench of this Court, we do not find substance in the argument of learned

Counsel Mr. Khare that, based on said Government Resolution, the “***Mana Kunbi***” sub-tribe is included in Entry No. 18.

14. In so far as the Validity Certificate issued in favour of the petitioner's uncle is concerned, the petitioner claimed that in view of the law laid down in the case of ***Apoorva Nichle*** (supra) and under Rule 11 of the S.T. Rules 2003, so no further Vigilance enquiry is required. However, the Committee has dealt with the said issue and observed that “*it has gone through the record of Validity holder Akshay’s case and noticed that no Vigilance Enquiry was conducted in his case, nor was the authenticity of documents verified; however, cryptic, and unreasoned order was passed. Moreover, the then Committee did not discuss how C.A. No.5270/2004’s decision applies to the case. In fact, the decision in said C.A. was not applicable to Akshay’s case.*” Therefore, the committee held that “*the ratio of the Validity Certificate of Akshay is not extendable to the applicant.*” Therefore, the issuance of a Validity Certificate to Akshay is not binding on the Committee.

15. As against above, the pre-constitutional era documents, i.e. the revenue entries of the great-great-grandfather of the

petitioner, wherein his cast was recorded as “*Mana Kunbi*”; therefore, the Validity granted to his uncle is not helpful to prove his caste claim. It further appears that the Committee, having considered the adverse entries placed on record by the Vigilance Cell, noted that the pre-constitutional revenue entries in relation to great-great-great-grandfather Raghu S/o Hanu from the years 1912 to 1917 are neither specifically disputed nor denied by the petitioner. Thus, as per the settled legal position, the oldest pre-constitutional entries have more probative value than the subsequent entries. In such an eventuality, it is incumbent on the petitioner to discharge the burden provided under Section 8 of the Maharashtra Scheduled Caste/Scheduled Tribe, Vimukta Jati, Other Backward Class and Special Backward Class (Regulation of Issuance and Verification of Caste Certificate) Act, 2000, but the petitioner failed to discharge the same. The said entries appear adverse to the petitioner’s claim and the validity certificate issued in favour of the petitioner’s uncle. When the validity certificate was issued, the Vigilance Report was not called. Therefore, issuance of the said validity in favour of the relative of the petitioner is hardly of any assistance to the petitioner in claiming caste validity.

16. The Committee, while dealing with the aforesaid issues, considered all the documents and rightly held that the petitioner failed to prove that he belonged to the “**Mana**” Scheduled Tribe. The record further shows that the oldest adverse entries from 1912 to 1917 depict the caste of the petitioner and his ancestors as “**Mana Kunbi**”, which the petitioner does not dispute categorically. Thus, in our opinion, *the Scheduled Tribe ‘Mana’, in Entry 18, has to be read as only ‘Mana’ and not as an umbrella or community. Therefore, tribes with similar/synonymous names or names with prefix/suffix to ‘Mana’ cannot claim any social status of a Scheduled Tribe.*

17. In this background, the petitioner, in our opinion, cannot be said to belong to the “**Mana**” Scheduled Tribe; rather, the Committee is justified in recording the finding that the petitioner has failed to demonstrate that he belongs to the “**Mana**” Scheduled Tribe. As such, the Government Resolution and the judgments relied upon by the petitioner are not helpful in proving his caste claim.

18. The petition, being sans merits, deserves to be dismissed, and the same is dismissed accordingly. No costs.

(ABHAY J. MANTRI, J.)

R. Belkhede,
Personal Assistant

(NITIN W. SAMBRE, J.)