



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

WRIT PETITION NO. 2189 OF 2024

Bhavesh s/o Gajendrakumar Rannaware,
Aged about 17 years, Occ. – Student,
through Natural Guardian Father
Shri Gajendrakumar s/o Vitthalrao
Rannaware, aged about 45 years,
Occupation – Service,
R/o Plot No.34, Nasheman Co-operative
Housing Society, Koradi Road, Bokhara,
Nagpur.

.... PETITIONER

VERSUS

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

.... RESPONDENT

Mr. Preeti D. Rane, Counsel for the petitioner,
Mr. N.R. Patil, A.G.P. for the respondent.

CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.

DATE : 08-05 -2025

JUDGMENT : (Per : ABHAY J. MANTRI, J.)

Heard. RULE. Heard finally with the consent of the learned
Counsel for the parties.

2. The petition challenges the order dated 12-12-2023 passed by the
respondent-Schedule Tribe Caste Certificate Scrutiny Committee, Nagpur
(for short, “*the Committee*”), which rejected the petitioner's Tribe Claim
that he belongs to the “*Mana*” Scheduled Tribe.

3. It is contended that the petitioner belongs to the “*Mana*” Scheduled Tribe. Accordingly, the Competent Authority had issued a Caste Certificate in his favour. To pursue his education in a Medical Course, the petitioner had submitted his Caste Certificate and documents to the St. Paul Science and Commerce Junior College, Nagpur. The principal of the said College had forwarded his Caste Certificate along with documents to the Committee for verification.

4. Since the Committee was dissatisfied with the documents, it forwarded the same to the Vigilance Cell for a thorough enquiry into the same. The Vigilance Cell had conducted the enquiry and submitted its report on 08-09-2023, observing that some adverse entries were found against the claim of the petitioner. The Committee issued a show cause notice and called upon the petitioner to explain those adverse entries. The petitioner, along with his father, appeared before the Committee and submitted their explanation on the show cause notice. After affording an opportunity of hearing, considering the Vigilance Cell report and the documents on record, the Committee vide impugned order rejected the Tribe Claim of the petitioner. Hence, this petition.

5. Ms. Preeti Rane, learned Counsel for the petitioner, vehemently contended that the petitioner, in support of his claim, had submitted twenty-two documents; out of them two Validity Certificates granted in favour of his father Gajendra and uncle Vijendra, one pre-constitutional

document of 1946 and one document of 1979 pertaining to his grandfather wherein his caste was recorded as “*Mana*”. Therefore, she submitted that based on the said two Validity Certificates and the oldest documents, the petitioner has demonstrated that he belongs to “*Mana*” Scheduled Tribe and, therefore, she urges that the petition be allowed.

To substantiate her claim, she has relied on the decisions of the Hon’ble Apex Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others*, 2023(2) *Mh.L.J.* 785 and *Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, and others*, 2010 (6) *Mh.L.J.* 401 and submitted that in view of the mandate laid down in the said decisions, the petitioner is entitled to get the Validity Certificate.

6. On the other hand, Mr. N.R. Patil, learned Assistant Government Pleader, vehemently resisted the application on the ground that the Validity Certificates granted to the father and uncle of the petitioner were granted without conducting the vigilance cell enquiry and, therefore, the Committee has not considered the documents which are inconsistent with the claim of the petitioner and, thus, those Validity Certificates are not helpful while considering the claim of the petitioner. Similarly, during the period of enquiry, the Vigilance Cell had found seventeen documents pertaining to the petitioner's ancestors wherein their caste has been recorded as ‘Mane’, ‘Kunbi’, ‘Mani’, ‘Mana Kunbi’, ‘Manya’ and ‘Mane’. The petitioner failed to explain the said adverse entries, and therefore, the

order passed by the Committee is just and proper, and no interference is required.

7. We have appreciated the rival contentions of the learned counsel for the parties and perused the impugned order and record. We have also perused the original record and returned it.

8. It is pertinent to note that the petitioner has produced Validity Certificates granted in favour of his father and uncle on 24-12-2008 and 27-02-2009, respectively. Therefore, the petitioner claims that as per 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 (for short, "**Rules of 2012**") and in view of the mandate laid down in the *Apoorva Vinay Nichale* (supra), the petitioner is entitled to the validity.

9. It is pertinent to note that the learned Assistant Government Pleader has not disputed that till this date neither the Validity Certificates have been cancelled nor any show cause notice was issued to the validity holders to recall the Validity Certificates, therefore, we are of the view that as per Explanation (3) of Rule 16 of the Rules of 2012 and the mandate laid down in *Apoorva Vinay Nichale* (supra), the petitioner is entitled to the validity.

10. The Committee, while passing the order impugned, has discarded the Validity Certificates issued in favour of his father and uncle as they were issued without conducting a vigilance cell enquiry, and the then Committees passed cryptic orders while issuing the Validity Certificates. The fact remains that neither the said orders have been challenged nor set aside to date. Therefore, there is no reason to discard the said Validity Certificates issued in favour of his father and uncle.

11. The Committee, in its order (Page No.133), has referred the Validity Certificates and the order passed in the said proceedings. We would like to reproduce the orders passed by the then Committees, as under :

ORDER

“Shri Gajendrakumar Vitthalrao Rannaware (hereinafter referred to as an “applicant”) has applied vide his application dated 28-1-09 for verification of his tribe claim as belonging to Mana, Scheduled Tribe.

The Scrutiny Committee verified the proposal submitted by the applicant. The applicant has submitted required information in Form “E” as par Rule 11(1) and documents thereto as mentioned in Part IV-B along with his original caste certificate in support of his tribe claim.

The Scrutiny Committee has perused the information and documents submitted by the applicant and have appreciated the same. The Scrutiny Committee is fully satisfied after verifying the documents and proofs produced by the applicant in support of his tribe claim. The Scrutiny Committee has come to the conclusion that the tribe claimed by the applicant is genuine one and therefore, as per Maharashtra Act No.XXIII of 2001 and Rule 12(2), dated 4-6-2003, the said case has not been handed over to the Police Vigilance Cell of the Scrutiny Committee for detailed School and home enquiry and the Scrutiny Committee decided to give decision on merit.

*The Scrutiny Committee has come to the conclusion that the documents placed on record **are sufficient to prove the applicant’s tribe claim towards Mana, Scheduled Tribe.***

*After considering the entire evidence on record, **we, the Members of the Scrutiny Committee, have unanimously come to the conclusion that the claim of the applicant, as belonging to Mana, a Scheduled Tribe, is established and proved.** Therefore, the Caste Certificate bearing R.C.No. 2053/MRC-81/04-05 dated 16-06-05 issued by Dy. Collector, Wardha is held valid, as per the Hon’ble Supreme Court’s decision in C.A.*

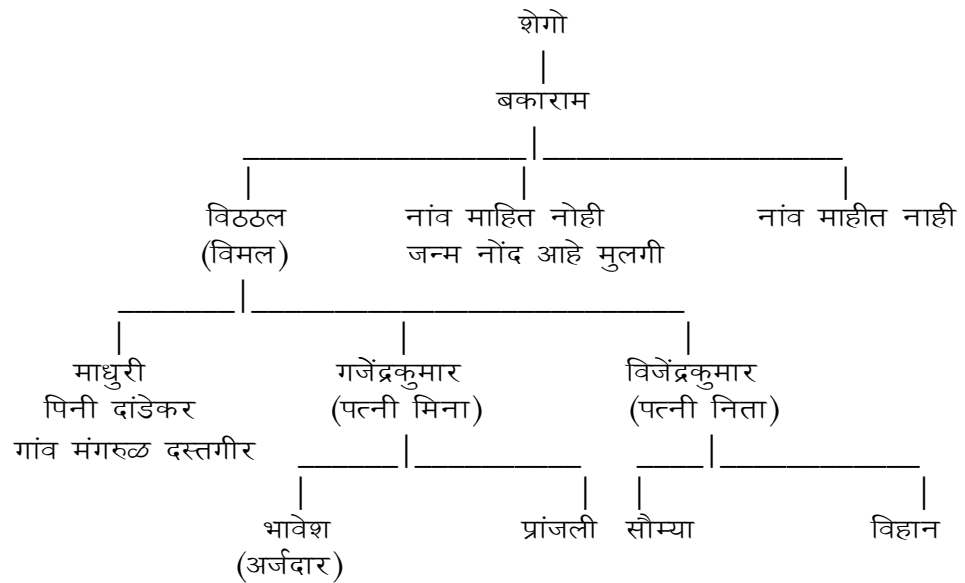
No.5270/2004. The validity of the Tribe Certificate be issued accordingly to the applicant.”

12. A bare perusal of the orders dated 24-12-2008 and 27-02-2009 passed by the then Committee indicate that after verifying the documents and being fully satisfied, the Committee granted Validity to them. The Committee, in its order, categorically observed that after considering the entire evidence and documents on record, the Members of the Committee unanimously came to the conclusion that the claim of the applicants therein as belonging to “*Mana*” Scheduled Tribe is established and proved. Also, it is observed that the documents placed on record are sufficient to prove the applicants’ Tribe Claim towards the Mana Scheduled Tribe. The said reasons themselves show that the Committee, after its satisfaction, has passed the order for issuance of the Validity Certificates in favour of the father and uncle of the petitioner. Therefore, it cannot be said that the Committee, without conducting the vigilance cell, passed the cryptic order, and, thus, those Validity Certificates are not helpful for the petitioner in support of his claim. It appears that the Committee has also considered the proposal submitted by them and documents in its proper perspective as per Rule 12 of the Rules of 2003. Thus, the findings recorded by the Committee regarding the Validities issued in favour of the father and uncle of the petitioner that those Validity Certificates were not issued as per the procedure prescribed under the Maharashtra Scheduled Tribe Certificate Rules, 2003 and, therefore, are not helpful for the petitioner, is contrary to Rule 12 of the Rules of 2003 as well as the

mandate laid down in the case of *Apoorva Vinay Nichale* (supra). On the contrary, as per the mandate laid down in the case of *Apoorva Vinay Nichale* (supra), the petitioner's claim ought not to have been refused, and the same status shall be awarded to the petitioner that he belongs to the 'Mana' Scheduled Tribe. Thus, his case is covered by the law laid down in *Apoorva Vinay Nichale* (supra).

13. It is to be noted that neither the Committee nor the Vigilance Cell have disputed the petitioner's relationship with his father, Gajendra, and real uncle Vijendra.

14. The petitioner's father, in support of the petitioner's claim, has given a genealogical tree of his family. The Committee has referred to the same in its order (Page No.117). We would like to reproduce the same as under :



15. During the vigilance enquiry, the petitioner produced a copy of the extract of the school admission and leaving register of 1946 pertaining to his grandfather, Vithoba Bakharam, wherein his caste was recorded as “*Mana*”. Similarly, the petitioner produced a copy of the extract of the Service-Book of his grandfather, Vitthal Bakaramji Rannaware, wherein year of his date of birth was mentioned as ‘1938’ and his caste was recorded as “*Mana*”. The Vigilance Cell or the Committee neither disputed nor denied those documents. But the Vigilance Cell in his report in paragraph 10 (Page No.43) categorically stated that they had verified the entry dated 02-07-1946 and found it to be correct, wherein the grandfather’s date of birth was recorded as ‘09-10-1938’ and caste was recorded as “*Mana*”. Similarly, the Vigilance Cell had verified the copy of the extract of the Service-Book of the grandfather of the petitioner, Vitthal Bakaram Rannaware and referred to the same, in paragraph 3 of the report (Page No.41), that they found the said document to be true and correct. They also observed that the said document is dated 21-09-1979. In the Service-Book, the petitioner’s grandfather’s date of birth was mentioned as ‘09-10-1938’, and his caste was recorded as ‘Mana’. However, according to the Committee, the Vigilance Cell discovered seventeen documents between 1942 and 1962, in which the caste of the persons was recorded as “Mane, Kunbi, Mani, Mana Kunbi, Manya, and Mane”. Therefore, the Vigilance Cell and the Committee discarded the documents of 1946 and 1979. On perusal of the said entries, it is evident

that out of them, entries dated 15-09-1940 and 30-04-1950 pertaining to one Mahadeo Motiram Narnaware, whose name is not shown in either of the genealogical trees provided in support of the petitioner's claim. Similarly, the genealogical tree does not show the names of other persons on whom the Vigilance Cell and Committee rely. Therefore, it was incumbent on the Vigilance Cell as well as the Committee to establish their relationship with the petitioner when their names are not shown in the genealogical tree, and the petitioner categorically denied his relationship with them by filing the explanation.

16. The Vigilance Cell or the Committee failed to demonstrate how Motiram, Mahadeo, Janba, Tukaram, Yashwant, Rambhau and Ramesh are in blood relations of the petitioner. Therefore, relying on the documents of those persons and recording the reason that they found the adverse entries in the documents pertaining to those persons is contrary to the facts on record and the settled position of law as discussed above. Therefore, the said finding cannot be sustained in the eyes of the law.

17. The Hon'ble Apex Court in ***Maharashtra Adiwasi Samaj Sanrakshan Samiti*** (supra) has held that "*the affinity test cannot be termed as a litmus test. Likewise, the oldest pre-constitutional document has more probative value than the subsequent document*". Thus, it appears that the finding regarding the affinity test seems contrary to the mandate laid down by the Hon'ble Apex Court.

18. To sum up the above discussion, it is evident that the petitioner, to substantiate his claim, has produced validities granted in favour of his father, Gajendra and uncle, Vijendra and a pre-constitution era document of 1946 and one document of 1979 pertaining to his grandfather, wherein his caste was recorded as “*Mana*”. The authenticity of those documents and entries made therein is neither disputed nor denied by the Committee nor the Vigilance Cell. Therefore, there is no reason to discard the same as the documents of 1946, being from the pre-constitutional era, and old ones have a greater probative value. Thus, it seems that the findings recorded by the Committee are based on the disputed documents, whose relationship was categorically denied by the petitioner. As such, the findings recorded by the Committee appear contrary to the mandate laid down in the cases of *Apoorva Vinay Nichale* and *Maharashtra Adiwasi Samaj Sanrakshan Samiti* (supra).

19. In the wake of the above, the impugned order cannot be sustained in the eyes of the law. Hence, we allow the petition and quash and set aside the impugned order dated 12-12-2023, passed by the respondent-the Committee. It is hereby declared that the petitioner belongs to the “*Mana*” Scheduled Tribe. Respondent No.1-Committee is directed to issue a Validity Certificate in favour of the petitioner within four weeks from the date of receipt of a copy of this judgment and order.

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

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

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