



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

WRIT PETITION NO.7017 OF 2024

1. Vedant s/o Anandrao Dharne, aged about 19 years, Occ. Student, r/o at Mauza Rengepar/Kohali, Po. Pimpalgaon, Tq. Lakhani, dist. Bhandara.
2. Tinu d/o Anandrao Dharne, aged about 23 years, Occ. Student, R/o at Mauza Rengepar/Kohali, Post Pimpalgaon, Tq. Lakhani Dist. Bhandara.

... PETITIONERS

VERSUS

1. The Scheduled Tribe Caste Certificate Scrutiny Committee, through its Member Secretary and Deputy Director, Gondia.
2. The Principal, Dr. D.Y. Patil Pratishthan's D.Y. Patil College of Engineering Akurdi, Pune.

... RESPONDENTS

Shri Ashwin Deshpande, Advocate for the petitioners.
Mrs. S.V. Kolhe, Assistant Government Pleader for the
respondent/State.

CORAM : SMT. M.S. JAWALKAR AND PRAVIN S. PATIL, JJ.
CLOSED ON : 26.08.2025.
PRONOUNCED ON : 18.09.2025

JUDGMENT : (Per : Pravin S. Patil, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the parties.

3. The petitioner by way of present petition questioned the order passed by the Caste Scrutiny Committee dated 15.01.2024 by which the claim of the petitioner belonging to Mana Scheduled Tribe is rejected.

4. It is the submission of the petitioner that on 18.08.2021 they have obtained the caste certificate of the 'Mana' scheduled tribe from the Competent Authority.

5. Petitioner no.1 is the student had taken admission in Bachelor of Engineering (Information Technology) in respondent no.2 College on 06.08.2023. Petitioner no.2 in the IInd year of Bachelor of Engineering in respondent no.2 College against the seat reserved for scheduled tribe category.

6. According to the petitioners, as they belong to scheduled tribe category, their claim for verification was forwarded to respondent Caste Scrutiny Committee ('the Committee') along with an application in which the petitioners have relied upon the following pre-constitutional era documents :

- (i) Birth extract of one male child born to petitioner's cousin grandfather namely Urkuda Mana dated 12.05.1921.

(ii) Birth extract of one male child born to the petitioner's cousin great grandfather namely Tima Mana dated 28.12.1916.

(iii) Birth extract of one male child born to petitioner's cousin great grandfather namely Time Mana dated 01.09.1921.

(iv) Birth extract of one male child born to petitioner's grandfather namely Soma Mana dated 03.02.1931.

(v) School record of petitioner's cousin uncle namely Nakaram Urkuda Dharne dated 01.07.1929 (date of admission) and 12.07.1921 (date of birth).

(vi) School record of petitioner's grandfather Rama Soma Dharne dated 03.09.1931.

(vii) School record of petitioners' cousin uncle Shravan Tima Dharne dated 14.08.1935.

(viii) School record of petitioner's cousin uncle Narayan Nakaram Dharne dated 24.11.1943.

(ix) School record of petitioner's cousin uncle Hariram Nakaram Dharne dated 05.06.1947.

(x) P-1 of Petitioner's grandfather and great grandfather namely Soma s/o Katu Dukaru, Urkuda Tima s/o Dharma Mana) of the year 1918-19.

7. In addition to above, pre-constitutional era documents, the petitioners also relied upon the caste validity certificate of petitioner's father, real sister and cousin brother dated 19.06.2007, 15.03.2008 and 26.04.2019 respectively. As such, on the basis of these documentary evidence, petitioners' have claim that they belonging to the Mana scheduled tribe.

8. It is undisputed fact that after forwarding the caste claim, the

respondent Committee on 05.05.2022 forwarded the caste claim of petitioner no. 2 to the Police Vigilance Cell and on 30.08.2022. The Police Vigilance Cell conducted an enquiry and submitted its report and as the respondent Committee was not satisfied with the Vigilance Cell enquiry report, decided to send the matter for re-enquiry to Vigilance Cell. Resultantly, fresh enquiry was conducted and report was submitted to the respondent Committee.

9. On receipt of the Police Vigilance Cell report, on 17.11.2022, respondent Committee by issuing show cause notice to petitioner no.2 asked her to remain present for hearing on 10.01.2023. After hearing conducted by respondent Committee and gone through the vigilance cell report along with the remark of the Research Officer and the documentary evidence submitted by petitioner no.2, the respondent Committee again decided to send the matter for re-enquiry. Accordingly, on 28.01.2023, the Committee send the matter for re-enquiry.

10. As per the directions of respondent Committee, the Vigilance Cell conducted re-enquiry and submitted its report in the case of petitioner no.2 on 29.09.2022 and in case of petitioner no. 1 on 11.10.2023.

11. After receiving re-enquiry report from the Vigilance Cell, show cause notice dated 12.10.2023 was issued to petitioner no. 1 and asked him to remain present for hearing on 19.10.2023. During the hearing the father of the petitioners was present before the Committee members. He has relied

upon pre-constitutional era documents whereas the Committee members insisted post constitution era documents. As such, hearing was conducted and matter was closed for order.

12. In respect of caste validity certificate produced on record by the petitioners of their blood relatives, it is pointed out to us that show cause notice dated 17.10.2023 was issued to the petitioner's father, real sister and cousin brother on 17.10.2023. To which detailed reply has been filed by the blood relatives of the petitioners on 22.11.2023. It is pointed out that till date the caste validity certificate of the blood relatives of the petitioners are in existence and same are not invalidated by any Competent Court of law.

13. In the background of above said factual position, the petitioners approached to this Court with the submission that the caste Scrutiny Committee failed to appreciate the pre-constitutional era documents and same were not considered thoroughly. According to the petitioners, pre-constitutional era documents is having more probative value, and therefore, same should not have been discarded by the Committee. So also, the caste validity certificate of the blood relatives of the petitioners are in existence and same was issued by conducting enquiry in their respective tribe claim. In support of this submission, the petitioners have relied upon the judgment of Hon'ble Supreme Court in the case of *Civil Appeal No.7117/2019 (Priya Pramod Gajabe vs. State of Maharashtra, Apoorva Nichale v. Divisional Caste Certificate Scrutiny Committee and other 2010(6) Mh.L.J. 401.*

14. We have heard the respective counsel at some length appearing for the parties as well as perused the record and original record produced by the respondent Committee.

15. At the first instance, perusal of the impugned order nowhere shows the appreciation of the pre-constitutional era documents of the family members of the petitioners. The petitioners have relied upon the documents of the year 1916 to 1940 of their forefather, wherein caste of forefather is shown to be recorded as 'Mana'. It is pertinent to note that as per the settled position of law, pre-constitutional era documents showing the caste of the petitioners and their ancestors has highest probative value. Time and again it is held by the Hon'ble Supreme Court that said documents should be given weightage while deciding the caste claim of the candidate. But here, we find that the pre-constitutional era documents were not properly considered by the respondent Committee and more weightage has been given to the post independence documents hence, *prima facie*, we are not satisfied with the observations made by the respondent Committee in the impugned judgment.

16. It is further pertinent to note that the documents of cousin grandfather dated 12.05.1921 was discarded by the Caste Scrutiny Committee by recording the reasons that according to the school record, the son born to the cousin grandfather namely Nakaram having a difference in date of birth to the documents produced by the petitioners and school record of the Nakaram. However, this reasoning of the Caste Scrutiny Committee

according to us, is erroneous, because in the pre-constitutional era the fact cannot be denied that people were not educated and therefore, there are likely chances that correct date may not have recorded while admitting their ward in the school. There may be minor discrepancy while recording the date of birth in the school record, however this cannot be a reason to discard the documents particularly when in the genealogical tree name of cousin grandfather and his son found place and same is neither disputed nor denied.

17. It is surprising to us that reasons given by respondent Committee to discard the old documents by stating that the subsequent entry from the year 1957, 1960, 1964, 1965, 1968, 1969, 1971, 1973 being found as 'Mani', therefore, according to the Committee the old entries cannot be relied upon. According to us, this finding of the Caste Scrutiny Committee is in direct violation of the law laid down by this Court as well as by the Hon'ble Supreme Court.

18. In respect of document of cousin great grandfather Tima Mana dated 28.12.1916 and 01.09.1921, the Committee stated that caste is not mentioned. According to us, in old record along with the name the caste is used to be mentioned and accordingly, the documents which we perused, clearly shows the mentioning of caste as 'Mana' against the name of cousin great grandfather. Hence, according to us, discarding this documents by recording the finding that the caste is not mentioned, is *per se* illegal and this finding is liable to be quashed and set aside.

19. So also, the same finding is recorded in respect of paternal grandfather namely Soma Mana dated 03.02.1931. The said finding of the Caste Scrutiny Committee is also incorrect in the matter. In respect of school record of Nakaram Urkunda Dharne, who is cousin uncle and entries is between 01.07.1929 to 01.02.1935 showing the caste 'Mana' was discarded by the Caste Scrutiny Committee mainly on the ground that after verification of the birth record the difference in date of birth is found. Again we want to record our same finding that it is not a justified reason to discard the pre-constitutional era documents.

20. In respect of the documents of grandfather Rama Soma Dharne and cousin uncle Shravan Tima Dharne, the petitioner has produced their school record of pre-constitutional era documents, wherein their caste is shown as 'Mana'. However, the Caste Scrutiny Committee has discarded this document stating that though school record of the paternal grandfather and grandfather is showing 'Mana' particularly to the year 1937 and 1942 but during the vigilance inquiry, post independence documents shown the entry in their school record as 'Mani'. Again finding recorded by the Caste Scrutiny Committee in this regard is contrary to the settled position of law, and hence, the same deserves to be set aside.

21. It is also pertinent to note that the petitioners, who have submitted the pre-constitutional era documents along with the application, as per the procedure laid down under the Caste Scrutiny Committee Rules,

2002, the Committee is required to verify the said documents and record their findings after receipt of the Vigilance Cell report. However, in the present case what we notice is that the respondent Committee thrice asked the Vigilance Cell to conduct the enquiry into the matter and only when Vigilance Cell found adverse documents collected by Vigilance Cell against the petitioner then only get satisfied that petitioners failed to prove their caste claim/tribe in the matter. We are recording their specific finding because the petitioner has produced on record the Vigilance Cell's first report dated 25.06.2025. Perusal of the record shows that the Vigilance Cell Officer, during the course of enquiry, noted that in the documents of the year 1937, the transfer certificate (TC) of Rama Soma an entry is found in his favour belonging to the tribe 'Mana'. So also, the document of the year 1955 to 1956 the entry is found to be 'Mana'. It is recorded in the report that the petitioners in support of their caste claim, furnished sufficient documents and evidence in that regard. But said report is not accepted by the Committee and directed to conduct re-enquiry in violation of Rule 12(2) of the Rules, 2002.

22. According to us, the finding recorded by the Vigilance Cell can be verified and tested by the Committee independently and record its finding whether the report submitted by the Vigilance Cell is justified in the matter or not. However, without doing so, the Committee time and again asked the Vigilance Cell to submit fresh enquiry report. Thus, the conduct of the respondent Committee is in violation of the law laid down by the Hon'ble Supreme Court in the case of *Maharashtra Aadiwasi Thakur Jamat*

Swarakshan Samiti vs. State of Maharashtra and ors. 2023 SCC Online SC 326.

23. It is pertinent to note that after the first vigilance report, the other vigilance report is placed on record on 11.10.2023. In said report also, the Vigilance Cell Officer specifically recorded the finding that as per the genealogical tree the entry of the years 1916, 1921, 1919 and 1924 found to be correct. So also, in respect of entry of the year 1937 in the school record of Rama Soma the entry has been found of caste Mana. The said Officer stated that in the post independence era, the school entries are found to be of caste 'Mani'. As such, it is clear that the old entry relied by the petitioners are twice found to be correct in the Vigilance Cell report.

24. In the present petition, what we noted that in the pre-constitutional era documents the entry of the ancestors of the petitioners shown to be as 'Mana' whereas after post independence era, the entries recorded by the Vigilance Cell which are relied by the respondent Committee, the caste/tribe is shown to be as 'Mani'. Accordingly, post independence entries have been relied upon by the Caste Scrutiny Committee, is in direct violation of the law laid down in the case of Priya Gajbe (*supra*). In this case, the Hon'ble Supreme Court had observed in paragraphs 9 to 13 as under :

“9. It could thus be seen that this Court has held that documents of the pre-Constitution period showing the caste of the applicant and their ancestors have got the highest probative value. It has also been held that if an applicant is able to produce authentic and genuine documents of the pre-Constitution period showing that he belongs to a tribal community, there is no reason to discard his or her claim as prior to 1950, there were no reservations provided to the Tribes included in the Constitution (Scheduled Tribes) Order.

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. We, therefore, find that there was no reason to discard the pre-Constitutional document of the period as early as 1924.

12. Insofar as Affinity Test is concerned, this Court, in the case of Anand v. Committee for Scrutiny and Verification of Tribe Claims and Others (2012) 1 SCC 113, has observed thus:

“22. It is manifest from the aforeextracted paragraph that the genuineness of a caste claim has to be considered not only on a thorough examination of the documents submitted in support of the claim but also on the affinity test, which would include the anthropological and ethnological traits, etc., of the applicant. However, it is neither feasible nor desirable to lay down an absolute rule, which could be applied mechanically to examine a caste claim. Nevertheless, we feel that the following broad parameters could be kept in view while dealing with a caste claim:

(i) While dealing with documentary evidence, greater reliance may be placed on pre-Independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to

post-Independence documents. In case the applicant is the first generation ever to attend school, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim. In fact, the mere fact that he is the first generation ever to attend school, some benefit of doubt in favour of the applicant may be given. Needless to add that in the event of a doubt on the credibility of a document, its veracity has to be tested on the basis of oral evidence, for which an opportunity has to be afforded to the applicant;

(ii) While applying the affinity test, which focuses on the ethnological connections with the Scheduled Tribe, a cautious approach has to be adopted. A few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. Hence, the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Nevertheless, the claim by an applicant that he is a part of a Scheduled Tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded on the ground that his present traits do not match his tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, etc. Thus, the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim."

13. This court has held that while applying the Affinity Test which focuses on the ethnological connections with the Scheduled Tribe, a cautious approach has to be adopted. It has been held that a few decades ago, when the tribes were somewhat immune to the cultural development happening

around them, the affinity test could serve as a determinative factor. However, with the migrations, modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. Hence, the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. It has been held that the claim by a person belonging to the Scheduled Tribe cannot per se be disregarded on the ground that his present traits do not match his tribe's peculiar anthropological and ethnological traits etc. It has been held that though the Affinity Test may be used to corroborate the documentary evidence, it should not be the sole criteria to reject the claim."

25. It is also pertinent to note in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)*, the Hon'ble Supreme Court has specifically held that the Caste Scrutiny Committee cannot direct the Vigilance Cell as a routine to submit his report. The Caste Scrutiny Committee has to apply its mind to the old entries and if they are not satisfied with the documents, then by recording the reason, has to refer the matter to the Vigilance Cell. But here in the present case, we do not find the compliance of Rule 12(2) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of Certificate) Rules, 2003.

26. In respect of caste claim of petitioner's father, real sister and cousin brother, the Caste Scrutiny Committee came to the submission that show cause notice were issued to them, which is placed on record dated 16.10.2023. A bare perusal of the show-cause notice reveals the fact that the respondent Committee sought an explanation from them on the basis of post-independence documents indicating that they belonged to the Mana caste,

and therefore called upon them to explain the same. The basis to show cause notice to them is the vigilance cell report conducted in the case of the petitioners.

27. The father, sister and brother of the petitioners jointly submitted their explanations to the respondent Committee on 22.11.2023 pointing out that as per Section 7(2) of the The Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes, Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, the order passed by the Caste Scrutiny Committee is final and same can be challenged before the High Court under Article 226 of the Constitution of India. However, their caste validity/claim never under challenge before this Court and hence same has attained finality. This aspect is not properly dealt with by respondent no.1 Committee. We are of the view that unless the caste validity certificate are found to have obtain fraudulently, there is no reason to disbelieve the same.

28. In this regard, it will be profitable to note the law laid down by this Court in the case of *Apoorva Nichale (supra)*, wherein this Court has specifically observed in paragraphs 9 and 10 as under :

“9. In the present case, we find that the committee has disbelieved the petitioner's case that she belongs to Kanjar Bhat after calling the school leaving certificate of petitioner's father and noticing that the original caste written on it was 'Thakur' and that was subsequently changed to Kanjar Bhat. The committee observed that the caste has been changed without

complying with the procedure prescribed by Section 48(e) and 132(3) of Mumbai Primary Education Act. In fact, the caste has been changed on the basis of the affidavit. From the findings of the committee it appears that the committee has observed that the change of caste has been done illegally. Obviously, the committee which decided the caste claim of the petitioner's sister did not hold the same view, otherwise it would have refused to grant validity. In the circumstances, we are of the view that the committee which has expressed a doubt about the validity of caste claim of the petitioner and has described it as a mistake in its order, ought not to have arrived at a different conclusion. The matters pertaining to validity of caste have a great impact on the candidate as well as on the future generations in many matters varying from marriage to education and enjoyment, and therefore where a committee has given a finding about the validity of the caste of a candidate another committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the committee dealing with the subsequent caste claim to reject it. There is, however, no doubt as observed by us earlier that if a committee is of the view that the earlier certificate is obtained by fraud it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order. In this view of the matter, we are of the view that the petition must succeed. Rule is made absolute in above terms. The Caste Scrutiny Committee is directed to furnish the caste validity certificate to the petitioner.”

29. In the background of above said factual and legal position, we are of the considered opinion that the petitioners have proved that they are belonging to the Mana scheduled tribe and accordingly, we find the impugned order passed by the respondent Committee is in violation of the settled principles of law, and therefore, the same is liable to be quashed and set aside. Hence, we proceed to pass the following order :

(a) The Writ Petition is allowed.

- (b) The order dated 15.01.2024 passed by the respondent Scheduled Tribe Caste Certificate Scrutiny Committee, Gondia is hereby quashed and set aside.
 - (c) It is declared that the petitioners belong to the 'Mana' Scheduled Tribe category, which is covered by entry no.18 of the Constitutional Scheduled Tribe Order, 1950.
 - (d) The respondent the Scheduled Tribe Caste Certificate Scrutiny Committee, Gondia is directed to issue the caste validity certificate to the petitioners within a period of three weeks from the date of this order.
30. Rule is made absolute in aforesaid terms. No order as to costs.

(PRAVIN S. PATIL, J.)

(SMT. M.S. JAWALKAR, J.)

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