



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

WRIT PETITION NO. 5731 OF 2024

WITH

WRIT PETITION NO. 3040 OF 2022

WITH

WRIT PETITION NO. 6562 OF 2022

WITH

WRIT PETITION NO. 7766 OF 2022

W.P. NO. 5731/2024.

Vaibhav S/o. Sheshrao Sherkar,
Aged about 18 years, Occ. Student,
R/o. House No.54, Hanuman Nagar,
Near Sai Mandir, Wanadongri,
Nagpur.

.... **PETITIONER.**

// VERSUS //

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

.... **RESPONDENT.**

Ms Preeti Rane, Adv. a/w Ms. Himani Kavi, Advocate for Petitioner.
Shri S.M.Ukey, Addl.G.P for Respondent-Committee.

WITH

W.P. NO. 3040/2022.

Ms Gunjan D/o. Sanjiv Sherkar,
Aged about 24 years, Occ. Student,
R/o. Plot No.34, Ayodhya Nagar,
Nagpur, Tq. & Distt. Nagpur.

.... **PETITIONER.**

// VERSUS //

1. Scheduled Tribe Certificate
Scrutiny Committee, Nagpur,
through its Chairman, Committee
for Scheduled Tribe Claims, Office at
Adiwasi Vikas Bhavan, 2nd Floor, Giripeth,
Nagpur, Tq. & Distt. Nagpur.
2. State of Maharashtra, through its
Secretary, Education Department/
Mantralaya, Mumbai-32.
3. State Common Entrance Test Cell
Maharashtra State, Mumbai, through
its Secretary, 8th Floor, New Excelsior
Building, A.K. Nayak Marg, Fort,
Mumbai – 40000
4. Principal, Vidarbha Bahuuddeshiya
Shikshan Sanstha's Tulshiramji
Gaikwad Patil College of Engineering
& Technology, Nagpur Office at
Mohogaon, Wardha Road, Nagpur -
441108.
5. The Registrar, Rashtra Sant Tukdoji
Maharaj University, Nagpur, Civil
Lines, Nagpur – 440 001.

.... RESPONDENTS.

Shri Prashant P. Dhok, Advocate for Petitioner.
Shri S.M.Ukey, Addl.G.P for Respondent Nos.1 to 3.
Ms Smita Taksande, Advocate for Respondent No.5.

WITH

W.P. NO. 6562/2022.

Nidhi d/o. Chandrashekhar Sherkar,
Age 18 years, Occ. : Education,
R/o. Plot No.34, Ayodhya Nagar,
Nagpur- 440 024

.... **PETITIONER.**

// VERSUS //

1. Scheduled Tribe Certificate
Scrutiny Committee, Nagpur,
through its Chairman, Committee
for Scheduled Tribe Claims, Office at
Adiwasi Bhawan, 2nd Floor,
Giripeth, Nagpur, Tah. & Dist. Nagpur.
2. State of Maharashtra, through its
Secretary, Social Justice Department.
Mantralaya, Mumbai-400 032.
3. Sub-Divisional Officer, Katol,
Sub-Divisional Office, Katol,
Tq. Katol, Dist. Nagpur.
4. State Common Entrance Test Cell,
Mumbai, through its Commissioner,
8th Floor, New Excelsior Building,
A.K. Nair Marg, Fort, Mumbai – 400001.

.... **RESPONDENTS.**

Shri Prashant P. Dhok, Advocate for Petitioner.
Shri S.M.Ukey, Addl.G.P for Respondent Nos.1 to 3.

WITH

W.P. NO.7766/2022.

Shubham S/o. Rajio Sherkar,
Aged about 25 years, Occ.: Private
Work, R/o. Plot No.34, Ayodhya Nagar,
Nagpur-400 024.

.... **PETITIONER.**

// VERSUS //

1. State of Maharashtra, through its
Secretary, Social Justice Department.
Mantralaya, Mumbai-400 032.
2. Scheduled Tribe Certificate
Scrutiny Committee, Gadchiroli,
Nagpur Division, Nagpur, through
its Chairman, Committee for
Scheduled Tribe Claims, Office at
Adiwasi Bhawan, 2nd Floor,
Giripeth, Nagpur, Tah. & Dist. Nagpur.
3. Sub-Divisional Officer, Katol,
Sub-Divisional Office, Katol,
Tq. Katol, Dist. Nagpur.

.... **RESPONDENTS.**

Shri Prashant P. Dhok, Advocate for Petitioner.
Shri S.M.Ukey, Addl.G.P for Respondent Nos.1 to 3.

CORAM : ALOK ARADHE, CJ AND
ANIL S. KILOR, J.

DATE OF RESERVING THE JUDGMENT : 27/02/2025
DATE OF PRONOUNCING THE JUDGMENT: 18/03/2025.

JUDGMENT : (P. C.)

1. Heard.

2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3. The petitioners in all these petitions are closely related and in their respective tribe claims as 'Mana', Scheduled Tribe, after considering the documentary evidence, affinity etc. the respondent-Committee invalidated the same by separate orders passed at different junctures. Admittedly the respondent Committee issued certain validities in favour of some close relatives of the petitioners, which support the case of the petitioners but the same have been discarded by the Committee. Hence, the petitioners' claims are interdependent and any decision in one matter will have bearing on other matters too. Hence, all these writ petitions are being heard and decided together.

WRIT PETITION NO.5731/2024.

4. In this petition, the petitioner claims to be 'Mana' Scheduled Tribe, which is enlisted at Sr.No.18 of the Scheduled Tribes Order, 1950. Accordingly, he obtained a Caste Certificate dated 12/03/2020 as 'Mana', Scheduled Tribe.

5. After completion of 12th Standard the petitioner appeared for MH-CET and NEET-UG-2024 on 05/05/2024. Then, a proposal for

grant of validity as 'Mana', Scheduled Tribe was forwarded through proper channel to the Scrutiny Committee on 03/07/2023, accompanied with documents supporting the claim, including Caste Validity Certificate of the father of the petitioner.

6. During the enquiry, the Vigilance Cell procured certain documents having adverse entries as 'Mani' and 'Mane', which petitioner denied by placing his explanation.

7. The committee, vide impugned order dated 30/08/2024, invalidated the claim of the petitioner, placing reliance upon such adverse entries. Thus, invalidation of tribe claim of the petitioner is the subject matter of challenge in this petition.

WRIT PETITION NO.3040/2022.

8. In this petition, the petitioner was admitted to MBA course in respondent No.4-College on 07/12/2021 in Scheduled Tribe Category. The respondent No.4, thereafter, issued letter to the respondent No.1-Scrutiny Committee for grant of validity to the tribe claim of the petitioner as 'Mana' Scheduled Tribe, which accordingly submitted by the petitioner on 27/06/2014 along with all supporting documents.

9. Thereupon, the Vigilance Cell enquiry was conducted and report was submitted, to which the petitioner submitted her reply. The

Scrutiny Committee invalidated her claim vide impugned order dated 22/10/2014.

WRIT PETITION NO.6562/2022.

10. In this petition, the petitioner submitted her tribe claim as 'Mana' Scheduled Tribe for verification to the respondent-Committee on 27/05/2022 along with all supporting documents to her claim, thereupon the Police Vigilance Cell enquiry was conducted and a report was submitted to the Committee on 09/12/2019 to which the petitioner submitted her reply on 22/12/2013 and 27/06/2022. The Committee, thereupon, invalidated the claim of the petitioner vide order dated 19/09/2022, which is under challenge in this writ petition.

WRIT PETITION NO.7766/2022.

11. In this petition, the petitioner submitted his tribe claim as 'Mana' Scheduled Tribe to the respondent No.2-Committee on 04/07/2011 along with all supporting documents to his claim, thereupon the Vigilance Cell conducted enquiry and submitted its report on 15/10/2013 to the Committee. The petitioner submitted his written reply on 27/06/2013 to the said Vigilance Cell enquiry report. The Scrutiny Committee invalidated the claim of the petitioner vide order dated 13/10/2014, which is under challenge in this writ petition.

12. We have heard the learned counsel for the respective parties.

13. Ms Rane, learned counsel for the petitioner submits that the respondent committee failed to appreciate twelve validities, including validity of father of the petitioner. It is submitted that thus, invalidation of the tribe claim of the petitioner is contrary to the law laid down by the Division Bench of this Court in the case of *Bharat ..vs.. State of Mah.*, reported in **2024(1) Mh.L.J. 647**.

14. It is argued that, the petitioners submitted documents of pre-independence period i.e. of the years 1907, 1918 and 1927 having entries 'Mana', which have been discarded in view of the documents collected by the Vigilance Cell having entry as 'Mani'. It is submitted that the Hon'ble Supreme Court of India in the case of *Priya Pramod Gajbe ..vs.. State of Maharashtra*, reported in **2023(10) SCALE 426** has observed that, there is no caste named as 'Mani', it is possible that there could be some mistake in writing when the caste was written. She, therefore, submits that invalidating the tribe claim of the petitioner is illegal and bad in law.

15. It is submitted that, so far as the document of the year 1901, procured by the Vigilance Cell, there is no mention of Dakhal

Kharij Register Number and it was found in a deteriorated condition. It is therefore, submitted that the reliance placed on the said document is erroneous.

16. Further it is submitted that the Committee states that the entries of the year 1903 and 1909 as 'Mani' in the name of Shankar Vithu, who is claimed by the Committee as cousin great-grandfather, were found during vigilance enquiry of Khushali, cousin of the petitioner. However, in the Vigilance Cell Report of Khushali there is no mention of such documents. Thus, it is submitted that without establishing the relations of Shankar Vithu with the petitioner, only because of similarity in the name, it has been relied upon. It is therefore, submitted that the Committee has committed error in invalidating the tribe claim of the petitioner.

17. Shri P.P. Dhok, learned counsel for the petitioners in Writ Petition Nos.7766/20222, 3040/2022 and 6562/2022 reiterates the submissions made by Ms Rane and submits that the documentary evidence submitted by the petitioners has been discarded by the Committee contrary to law. He further adopts the submissions made by Ms Rane.

18. On the other hand, the learned A.G.P. strongly opposed the present writ petitions. He supports the orders of invalidation impugned in these petitions. It is argued that the petitioner in W.P. No.5731/2024 suppressed the fact of rejection of caste claims of his close relatives viz. Ms Gunjan Sanjiv Sherkar, Ku. Nidhi Chandrashekhar Sherkar and Shubham Rajio Sherkar, (Petitioners in Writ Petition Nos.3040/2022, 6562/2022 and 7766/2022). He thus, submits that this Court may not grant any relief to the petitioners as the petitioners have not approached this Court with clean hands.

19. It is further argued that the Vigilance Cell procured certain documents of pre-independence period out of which the oldest document is of the year 1901, having entries as 'Mani' and 'Mane'. Hence, the Committee has rightly invalidated the claim of the petitioner.

20. In the above referred backdrop, we have perused the record and the impugned order. (The parties are referred as mentioned in Writ Petition No.5731/2024)

21. From the record, it is evident that validities were issued by the Committee to the close relatives of the petitioners, including petitioner's father.

22. This Court in the case of *Mana Adim Jamat Mandal ..vs.. State of Maharashtra*, reported in **2003(3) Mh.L.J. 513** has held that 'Mana' is a separate tribe in itself and 'Mana' community people have not required to show any affinity with Gond Scheduled Tribe. The said decision was challenged by the State of Maharashtra before the Hon'ble Supreme Court of India. During the pendency of the said Special Leave Petition (SLP), certain validities were issued by the Committee by mentioning SLP number at the bottom of it. It is to be noted that, even where the vigilance enquiry was conducted, such endorsements were made on the validity certificates.

23. It is evident from the record that in the Validity Certificates of Pandurang Sherkar, cousin grandfather and Khushali Sherkar, cousin of the petitioner in W.P. No.5731/2024, at the bottom of it special leave petition number was mentioned. In the case of Pandurang Sherkar, the vigilance enquiry was conducted. It is to be noted that the validities of Sheshrao Sherkar, Ananta Sherkar, Khushali Sherkar, Ujjwal Sherkar and Dinkar Sherkar did not take into consideration on the ground that vigilance enquiry was not conducted as mandated by the provisions 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 (Maharashtra Act No.XXIII of 2001) and Rules 2003. It is thus, evident that despite the fact that the Vigilance Cell enquiry was conducted in the case of Pandurang and Khushali those validities have not been taken into consideration.

24. The Co-ordinate Bench of this Court in the case of *Bharat Garud* (supra) has held thus :

"30.Insofar as the jurisdiction of a quasi judicial authority to exercise review powers is concerned, in our opinion, the reliance of the petitioner on the decision of the Supreme Court in the case of Naresh Kumar and ors, vs. Government (NCT of Delhi) (supra), is quite apposite. In such decision the Supreme Court, although in the context of an award under the Land Acquisition Act and whether there would be a power to review the award, reiterated the well-settled principle of law, that the power of review can be exercised only when the statute provides for the same. The Supreme Court observed thus:

"13. In Patel Narshi Thakershi vs. Pradyuman Singhji Arjunsinghji, Chandra Bhan Singh vs. Latafat Ullah Khan, Kuntesh Gupta vs. Hindu Kanya Mahavidyalaya, State of Orissa vs. Commr. Of Land Records and Settlement and Sunita Jain vs. Pawan Kumar Jain, this Court held that the power to review is not an inherent power. It must be conferred by law either expressly/specifically or by necessary implication and in the absence of any provision in the Act/Rules, review of an earlier order is impermissible as review is a creation of statute. Jurisdiction of review can be derived only from the statute and thus, any order of review in the absence of any statutory provision for the same is a nullity, being without jurisdiction."

25. Similarly, in the case of *Anil Shivraj Bandawar ..vs.. State of Maharashtra*, reported in **2021(5) Mh.L.J. 345** the Division Bench of this Court while examining whether the Caste Scrutiny Committee would have any statutory power either under the 2000 Act and the Rules framed thereunder to re-examine the caste validity certificate already issued, this Court has held thus :

“6. We find that it was not permissible for the Caste Scrutiny Committee to have re-examined the caste certificate and Caste Validity Certificate issued to the petitioner on the grounds on which it was so sought to be so re-examined as stated in the show cause notice. It is undisputed that there is no provision either in the Act of 2000 or the Rules framed thereunder to re-open/re-examine the matter of issuance of a Validity Certificate by it. This aspect as regards absence of statutory power to do so stands concluded by the decision of this Court in Apoorva Vinay Nichale (supra). It has been held in clear terms that merely because a different view on the same facts could be arrived at, the same would not entitle the Scrutiny Committee dealing with a subsequent caste-claim to reject such claim. As stated above it is on the basis of fresh material in the form of old revenue records of the year 1920-24 that the exercise of re-examining the Caste Validity Certificate was undertaken by the Scrutiny Committee. We thus find that in absence of any statutory power either under the Act of 2000 or the Rules framed thereunder to re-examine a Caste Validity Certificate already issued, the exercise undertaken by the Scrutiny Committee pursuant to the show cause notice issued by it was without jurisdiction.”

26. Thus, from the above referred observations of the Division Bench of this Court, it is evident that the Committee has no jurisdiction,

much less inherent jurisdiction, to review its own decision. Thus, while invalidating the tribe claims of the petitioners, it is apparent that the validity certificates granted in favour of the close relatives of the petitioners have been discarded, which is erroneous.

27. As far as submission of the learned AGP that the petitioners suppressed the fact of rejection of the caste claim of the close relatives cannot be accepted for the reason that in the petition there is a mention of such fact and it cannot be said that the petitioners have gained any benefit out of such suppression, particularly when the petitioners are having documents of pre-independence period and numerous validities, including validity of their respective fathers.

28. So far as document of the year 1901 is concerned, it was found in deteriorated condition, and it is not mentioned in any of the Vigilance Cell enquiry reports conducted in relation to Pandurang Sherkar cousin grandfather and Khushali Chandrashekhkar Sherkar. No Dakhal Kharij register number is mentioned of the said entry. There is no explanation for not mentioning said number, which ought to have mentioned as the Committee has relied upon the said entry to invalidate the caste claim of the petitioner.

29. The documents of the years 1901,1907,1909,1937,1941-42 to 1943-44 etc. alleged to have suppressed by petitioners is one of the reasons to invalidate the caste claim of the petitioners. It is alleged that the petitioners deliberately suppressed those documents. However, in this regard, the replies of the petitioners were not considered and nothing is brought on record to show their relations with each other. It was necessary and utmost important to bring the evidence on record about the relations amongst the petitioners as the Committee has observed in the order itself that there is no surname in the old records. So, many times synonym record which is matched with the genealogy seen to be used. In that view of the matter, we are of the opinion that further inquiry in the present matter is required.

30. The documents submitted by the petitioners even of pre-independence period, have not been considered on the ground that certain entries were found adverse as 'Mani' to the claim of the petitioners.

31. The Hon'ble Supreme Court of India in the case of *Priya Pramod Gajbe* (supra) has held thus :

“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.”

32. Thus, it is evident that there is no caste claim as ‘Mani’ and it is possible that there could be some mistake in writing. The Hon’ble Supreme Court has also noted that the original record is written in Marathi and not in English. The Committee ought to have taken into consideration the said findings recorded by the Supreme Court of India in the case of *Priya Gajbe* (supra) while relying upon the entries of 1901 and 1903 as ‘Mani’ or ‘Mane’.

33. In the circumstances, having held that the Committee erred in discarding the pre-independence period documents produced by the

petitioners as well as the validity certificates issued to the close relatives of the petitioners and also the explanation of the petitioners submitted to the Vigilance Cell report and as we noted that all the petitions are interdependent, all the petitions need to refer back together to the respondent-Scrutiny Committee to decide the same afresh.

34. Accordingly, we pass the following order :

- i) All the Writ Petitions are **partly allowed**.
- ii) The impugned orders dated 30/08/2024 in case No.JC/TCSC/NGP/I/328/31/2023 (WP No.5731/2024), dated 22/10/2014 in case No.JC/TCSC/NGP/I/370/31/2012-13 (WP No.3040/2022, dated 19/09/2022 in case No.JC/TCSC/NGP/I/756/31/2022 (WP No.6562/2022) and dated 13/10/2014 in case No.JC/TCSC/NGP/I/192/31/2011-12 (WP No.7766/2022), passed by the Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur, are hereby quashed and set aside.
- iii) The matters are remanded back to the respondent- Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur to consider the same afresh, after hearing the petitioners and after considering the observations made herein above.

Rule accordingly. No order as to costs.

(ANIL S. KILOR, J)

(CHIEF JUSTICE)

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