



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

WRIT PETITION NO. 7400/2024

PETITIONER:-

Sharwari D/o Sunil Chouke,
Aged about 18 years, Occ. Student,
R/o. Gugilwar Layout, Lokhande Plot,
Yavatmal, District Yavatmal 445001

// VERSUS //

RESPONDENT:-

The Vice Chairman/Member
Secretary, Scheduled Tribe Caste
Certificate Scrutiny Committee,
Yavatmal

Ms. P.D. Rane, Advocate for the Petitioner(s)
Shri A.S. Fulzele, Addl. GP for the Respondent/State

CORAM : M.S. JAWALKAR & PRAVIN S. PATIL, JJ.
CLOSED FOR JUDGMENT ON :- JULY 07, 2025
JUDGMENT PRONOUNCED ON :- JULY 29, 2025

JUDGMENT :- (PER:- M.S. JAWALKAR, J.)

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

(2) The present Writ Petition is filed by the Petitioner challenging the order dated 03/09/2024 passed by the Respondent – Scheduled Tribe Caste Certificate Scrutiny Committee, Yavatmal (hereinafter referred to as “the Scrutiny Committee”) whereby the caste claim of the Petitioner came to be rejected.

(3) The Petitioner claims that she belongs to ‘Mana’ Scheduled Tribe which is enlisted at Serial No. 18 of the Scheduled Tribes Order, 1950, because the caste certificate dated 04/11/2019 was issued by the Competent Authority in favour of the Petitioner. The caste claim of the Petitioner, towards ‘Mana’ Scheduled Tribe, came to be forwarded to the Scrutiny Committee along with the necessary documents for the purpose of caste verification on 14/02/2024. The Petitioner submitted the following old documents before the Respondent – Scrutiny Committee:-

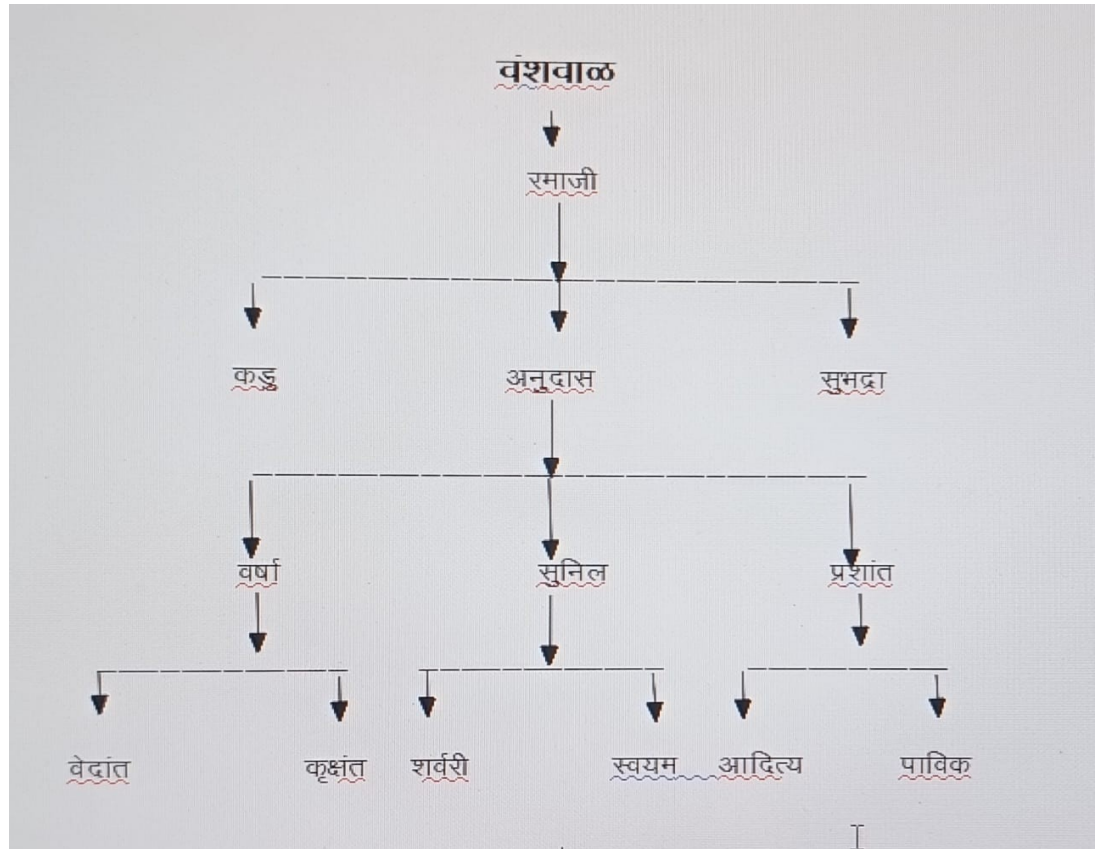
(a) School leaving certificate of the Petitioner’s grandfather namely Bhanudas dated 19/09/1965 wherein the date of birth is mentioned as 14/11/1947;

(b) Service book of the Petitioner's grandfather namely Bhanudas dated 06/11/1969 wherein the date of birth is mentioned as 14/11/1947;

(c) Extract of son born to the cousin grandfather namely Rama dated 04/11/2019 wherein the date of birth is mentioned as 18/09/1933;

(d) The family tree of the Petitioner's family dated 16/02/2023.

(4) The Petitioner has also placed on record her family tree which is reproduced as under:-



(5) The Vigilance Cell of the Scrutiny Committee conducted the enquiry in relation to the caste claim of the Petitioner and submitted its report on 08/05/2024. The Petitioner submitted her reply to the vigilance report in which she had specifically stated that the Petitioner has submitted the pre-constitutional documents in respect of her blood relatives having greatest probative value. The Petitioner had denied all the adverse entries obtained by the Vigilance Officer by placing her explanation in the vigilance reply. The Vigilance Committee procured some adverse entries like Mani, Manya & Mana-Kunbi. These entries are denied specifically.

(6) On perusal of the report of the Vigilance Cell, in the list of documents procured by the Vigilance Cell during the enquiry, the document at Serial No. 5 is the oldest document produced by the Petitioner. Insofar as the Document No. 2 procured by the Vigilance Cell showing the entry as 'Mana Kunbi', it appears that the daughter by name Sakhu was born to Rama which is dated 15/08/1928. The Document No. 3 shows that the said Sakhu D/o Rama expired on 16/09/1931 wherein the entry is shown as 'Mani'. In the Document No. 4 dated

17/01/1932, the caste of Rama is shown as Manya. In the Document No. 5, the caste of said Rama is shown as 'Mana' which is the entry of 18/09/1933. In the remark column, it is written as "अर्जदाराने कट्टू या नावाचा उल्लेख केलेला नाही". In this document, it is mentioned that Rama gave birth to a male child namely Kattu.

(7) If the genealogy collected during the enquiry is seen, it seems that there is a son born to Ramaji by name Kadu. The Scrutiny Committee discarded these documents only on the ground that in the statement of Bhanudas Ramaji Chouke, while mentioning the family tree, the name of Kattu is not given. It is also discarded on the ground that there is no mention of caste and only 'Mana' is mentioned. There is no school record or revenue records pertaining to this person Kattu. In the service record produced by the Petitioner in respect of her grandfather Bhanudas Chouke, his caste is shown as 'Mana' and his date of birth is mentioned as 14/11/1947. His caste shown is recognized as Special Backward Class under the Government Resolution. These entries are duly verified. The Petitioner produced on record the certified copy of the extract of birth & death Kotwali

register dated 18/09/1933, wherein it is shown that Rama gave birth to one Kattu. The said entry is of Mouza Sawangi, Tahsil Babhulgaon, District Yavatmal. It appears that only on the reason that it is mentioned as Kattu and not Kadu, as mentioned in the family tree, the caste claim of the Petitioner has been rejected. This reason cannot be accepted as it is handwritten entry. There may be some error in writing by the person in the Tahsil office. It is also a matter of record that the caste of said Rama, in some places is mentioned as 'Mani' and some places, it is mentioned as 'Manya', but all these entries are prior to the cut off date.

(8) The learned Addl. G.P. for the Respondent supported the order passed by the Scrutiny Committee and submitted that there are different entries as Mani, Manya & Mana-Kunbi.

(9) Learned Counsel for the Petitioner relied on the judgment of this Court in the case of ***Mana Adim Jamat Mandal vs. State of Maharashtra, 2003(3) Mh.L.J 513***, wherein this Court, in Paragraph No. 26, has held as under:-

26. *At the cost of repetition we may mention that there is no tribe mentioned in Entry 18 as Gond Mana. The decision of the Government that Mana cannot stand alone to be qualified as Scheduled Tribe is clearly contrary to the plain language of Entry 18 of the Scheduled Tribes Order. What the State Government says is that the only Gond Manas can qualify as Scheduled Tribe under Entry 18. The entry has not been read as it is, evidence has been allowed to consider the entry which is not permissible in view of the decision of the Supreme Court in Millind's case which holds that no evidence can be led for the purpose of construing the entry.*

(10) Learned Counsel for the Petitioner also placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***State of Maharashtra & others vs. Mana Adim Jamat Mandal***, wherein the Hon'ble Supreme Court, in Paragraph No. 30, has held as under:-

“30. *The common pattern found in most of the group entries is that there is a punctuation mark comma (,) between one Entry and another Entry in the group signifying that each one of them is deemed to be a separate Scheduled Tribe by itself. In the present case, Entry 18 of the Schedule clearly signifies that each of the Tribe mentioned therein deemed to be a*

separate Tribe by itself and not a sub-Tribe of "Gond". "Gond" is a Scheduled Tribe, it is not disputed. As already noticed that "Gond" including Arakh or Arrakh etc. found in Entry 12 of Amendment Act 63 of 1956 has been done away with by the Amendment Act of 1976. In Entry 18 of Second Schedule of Amendment Act of 1976 the word "including" was deliberately omitted, which signifies that each one of the Tribe specifying in Entry 18 is deemed to be a separate Tribe by itself. Therefore, "Mana" is not a sub-Tribe of "Gond" but a separate Tribe by itself and is a Scheduled Tribe."

(11) Learned Counsel for the Petitioner, in respect of her contention that the Scrutiny Committee, if satisfied on the material produced on record, there is no need to refer the matter to the Vigilance Cell, placed reliance on the judgment in the case of ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra, 2023(2) Mh.L.J. 785*** wherein the Hon'ble Supreme Court in Paragraph No. 36 of the said judgment held as under:-

"36. Thus, to conclude, we hold that:

(a) Only when the Scrutiny Committee after holding an enquiry is not satisfied with the material produced

by the applicant, the case can be referred to Vigilance Cell. While referring the case to Vigilance Cell, the Scrutiny Committee must record brief reasons for coming to the conclusion that it is not satisfied with the material produced by the applicant. Only after a case is referred to the Vigilance Cell for making enquiry, an occasion for the conduct of affinity test will arise.

(b) For the reasons which we have recorded, affinity test cannot be conclusive either way. When an affinity test is conducted by the Vigilance Cell, the result of the test along with all other material on record having probative value will have to be taken into consideration by the Scrutiny Committee for deciding the caste validity claim; and

(c) In short, affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of correctness of a caste or tribe claim in every case.”

(12) Learned Counsel for the Petitioner relied on the judgment of the Hon'ble Supreme Court in the case of ***Kumari Madhuri Patil vs. Additional Commissioner, Tribal Development and others, AIR 1995 SC 94***, wherein the Hon'ble Supreme Court, in Paragraph No. 14, held as under:-

“14.The court has to see whether the Committee considered all the relevant material placed before it or has not applied its mind to relevant facts which have led the Committee ultimately record the finding. Each case must be considered in the backdrop of its own facts.”

(13) Learned Counsel for the Petitioner also relied on the judgment of this Court in *Writ Petition No. 217/2023 (Vanshaj S/o Arun Sawsakade vs. The Vice-Chairman/Member Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee, Yavatmal*. It is one of the grounds that the validity certificate issued in favour of the father of the Petitioner is of ‘Mana’, however, it is a Special Backward Class. Therefore, the explanation was not accepted. It is a matter of record that ‘Mana’ Tribe was earlier included in the SBC, however, by virtue of the decision of the Hon’ble Supreme Court, the Government has issued the Resolution dated 02/06/2004 excluding the entry of ‘Mana’ falling in SBC or OBC category. More importantly, the entries of Mana are declared to be of Scheduled Tribe category. There was no reason for the Scrutiny Committee to record the finding contrary to the Government Resolutions.

(14) Insofar as the invalidation of the caste of one of the relatives namely Prashant Chouke is concerned, it cannot be the reason to reject the caste claim of the Petitioner, as held in the judgment dated 12/03/2025 passed by this Court, Bench at Aurangabad in ***Writ Petition No. 14111/2021 (Mangesh S/o. Panditrao Thakur vs. The State of Maharashtra & others)***, wherein this Court, in Paragraph No. 13, held as under:-

“13. True it is that there is an invalidation of Jyoti Narayan Vishve’s certificate and the order has attained finality right up to the Supreme Court. However, we have been consistently holding that the decision of the scrutiny committee would only bind the claimant and would not bind the blood relatives, for the simple reason that they are not parties to such adjudication and that a blood relative may be able to substantiate his claim by leading cogent and relevant evidence sufficient enough to discharge the burden cast upon him under section 8 of the Maharashtra Act No. XXIII of 2001.”

(15) Learned Counsel for the Petitioner also relied on the judgment of the Hon’ble Supreme Court in the case of ***Priya Pramod Gajbe vs. the State of Maharashtra & others, 2023 INSC***

663, wherein the Hon'ble Supreme Court in Paragraph Nos. 9 and 10, held 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.”

(16) Thus, it can be seen that there could be some mistake in writing when the caste was written. There is no caste by name 'Mani'. Insofar as the birth entry of Kadu is concerned, it is the son of Rama shown in the family tree, which is procured by the Vigilance Cell. Only on the basis that it is written in the birth record as 'Kattu' whereas as per the information of the family tree, it is Kadu, considering the place of birth, name of the father, there is no scope to doubt this entry. There could be error in writing either by the Office of Tahsildar, Mouza Sawangi or of the Vigilance Cell while writing the family tree. It hardly makes any difference in view of the fact that in the family tree, the name 'Kadu' appearing as a son of Rama which family tree is accepted. In view of the legal position and the evidence on record, the Scrutiny Committee has recorded perverse finding and without any substance rejected the caste claim of the Petitioner specifically when her father was already granted validity of 'Mana' SBC, which was subsequently included in the Scheduled Tribe category.

(17) Hence, we proceed to pass following order:-

ORDER

- (a) The Writ Petition is **allowed**.
- (b) The impugned order dated 03/09/2024 in Case No. 11/510/Edu/022024/68538 passed by the Respondent – Scheduled Tribe Caste Certificate Scrutiny Committee, Yavatmal is hereby quashed and set aside.
- (c) It is declared that the Petitioner has duly established that she belongs to ‘Mana’ Scheduled Tribe. The Respondent – Caste Scrutiny Committee is directed to issue caste certificate in favour of the Petitioner as she belongs to ‘Mana’ Scheduled Tribe within a period of two weeks.
- (d) The Petitioner can rely upon the copy of this judgment, if necessary, till the certificate is issued in favour of the Petitioner.

Rule is made absolute in the above terms. Pending Application(s), if any, stand(s) **disposed of**.

(PRAVIN S. PATIL, J.)

(M.S. JAWALKAR, J.)