

WRIT PETITION NO. 3377 OF 2019.

Dudhram s/o Baguji Hanwate .... Petitioner.

**-VERSUS-**

1.State of Maharashtra and others. .... Respondents.

Shri P.P. Dhok, Advocate for the Petitioner.

Ms. K. Deshpande, Assistant Government Pleader for Respondents.

**CORAM : NITIN JAMDAR AND  
ANIL S. KILOR, JJ.**

DATE : 1 MARCH 2021.

P.C.

The present petition is an outcome of an order of invalidation of a Tribe claim of the Petitioner as ‘Mana’, Scheduled Tribe.

2. We have heard the learned respective Counsel for the parties.

3. The brief facts of the present petition are as under:

The Petitioner was appointed as a 'Police Constable' on a reserved post for Scheduled Tribe. Since, the Petitioner was not holding a validity certificate, his Tribe claim was referred to the Respondent No.2-Caste Scrutiny Committee, on 01.11.2012. Thereupon the Caste Scrutiny Committee conducted enquiry through Police Vigilance Cell and on receiving report the explanation was called from the Petitioner. The Committee thereafter considered the Police Vigilance Cell report, reply to the same and documents submitted by the Petitioner and rejected the Tribe claim of the Petitioner, vide order dated 27.07.2018. The legality and correctness of the same is questioned in the present matter.

4. Shri Dhok, the learned Counsel for the Petitioner submits that the Committee has not made proper evaluation and assessment of the documents available on record, and thus, committed error.

5. He further draws attention of this Court to the list of documents and pointed out that two documents i.e. relating to grand father of the Petitioner, Janya @ Yadu, of the year 1923-24 having entry 'Mana' and cousin grand father-Dharma, of the year 1948-49, having entry 'Mana', the validity certificate issued to the cousin of the Petitioner Ghanshyam Bhaskar Hanwate as well, have been ignored by the Committee on unsustainable ground.

6. He further submits that the Committee has not considered the various judgments of this Court and the Apex Court, observing that

a pre-Independence period document having entry 'Mana' is sufficient to hold that the candidate belongs to 'Mana', Scheduled Tribe.

7. The learned Counsel for the Petitioner, in support of his contentions, has placed reliance on the following judgments - <sup>1</sup>*Mana Adim Jamat Mandal v. State of Maharashtra and others*; <sup>2</sup>*Apoorva Vinay Nichale v. Divisional Caste Certificate Scrutiny Committee No.1 and others*; <sup>3</sup>*Ankush Yashwantrao Mankar v. Scheduled Tribe Certificates Scrutiny Committee, Gadchiroli and others*; <sup>4</sup>*Gajanan Pandurang Shende v. Head Master, Govt. Ashram School, Dongargaon Salod and others*; <sup>5</sup>*Narendra Balaji Ghodmare v. Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli and another* and <sup>6</sup>*Shubham Sharad Gadmade v. Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur and others*.

8. Per contra, Ms. Deshpande learned Assistant Government Pleader appearing for the Respondent Committee, has opposed the present petition and submits that the entry 'Mana' of pre-independence period, though holds higher degree of probative value, but, corroborative evidence is needed to establish that such entry is relating to Scheduled Tribe, which the Petitioner has failed to establish, and therefore, the Tribe claim of the Petitioner was rightly rejected by the Caste Scrutiny Committee.

1 2003 [3] Mh.L.J. 513  
2 2010 [6] Mh.L.J. 401.  
3 2018 [1] ABR 506  
4 2018 [2] Mh.L.J. 460  
5 2018 [2] Mh.L.J. 766  
6 2019 [1] Mh.L.J. 757

9. She further submits that, the validity certificate upon which a reliance is sought to be placed, was issued without an enquiry by the Vigilance Cell, and therefore, the same cannot be relied upon in absence of corroborative material.

10. To consider the rival contentions of the parties, we have perused the record, whereupon it is revealed that there are two documents produced by the Petitioner of pre-independence period, i.e. a document of the year 1923-24 relating to grand father and another document is of the year 1948-49 relating to cousin grand father of the Petitioner, having entries as 'Mana'. Both the aforesaid entries are found in revenue record.

11. The reason given by the Respondent – Committee, for not relying upon the aforesaid entries, is that the Petitioner failed to establish that the same are relating to Scheduled Tribe.

12. Now it is a settled law that before the benefit of reservation is granted to the claimant who claims to belong to 'Mana' Scheduled Tribe, an enquiry in to the question as to whether claimant belongs to Scheduled Tribe, is permissible, even though the claimant possesses a document of pre-independence period having entry 'Mana'.

13. The Scrutiny Committee while invalidating the Tribe Claim of the Petitioner, has relied upon various judgments of this Court wherein this Court after considering the entries as 'Mana' came to the

conclusion that the said entries are not related to Scheduled Tribe.

14. The Committee also discussed and considered the various Government Gazettes etc., while observing that the caste 'Mana' is found in Scheduled Tribe and other than Scheduled Tribe also, and thereupon further observed that the surnames of close relatives of the Petitioner, are not found in 'Mana' Scheduled Tribe.

15. It is thus, clear that having entry 'Mana' in pre-Independence period document, itself is not sufficient to establish that it relates to as Scheduled Tribe. The Scrutiny Committee in this matter, has therefore, rightly taken in to consideration the affinity test and thereupon came to conclusion that, the Petitioner failed to discharge his burden to establish that he belongs to Scheduled Tribe.

16. In this matter, having considered the reasons recorded and the material considered by the Committee while reaching to a conclusion that documents having entry 'Mana', are not sufficient to establish that the same are relating to Scheduled Tribe, we do not find any error committed by the Scrutiny Committee.

17. Now we will move to another contention of the Petitioner that the Scrutiny Committee failed to consider the validity certificate produced by the Petitioner, relating to his cousin as 'Mana' Scheduled Tribe.

18. There is no dispute, that the said validity certificate was

issued in view of the decision of the Hon'ble Supreme Court of India in Civil Appeal No. 5270/2004. There is also no dispute that the said proceeding before the Hon'ble Supreme Court was not relating to the cousin of the Petitioner, but, it was in the matter of some claimant who is not related to the Petitioner.

19. We are conscious that, a validity certificate issued to a near relative of the candidate is relevant while determining a Tribe claim, but, at the same time, it must be pointed out that if it is found that in granting validity certificate vital evidence had been discarded and ignored and a relative had been declared to be belonging to Scheduled Tribe, the same by itself would not be conclusive in nature so as to bind another Committee while examining the Tribe claim and in such eventuality the Committee can arrive at a different finding.

20. It has come on record that while issuing said validity to the Petitioner's cousin, no enquiry was conducted through vigilance cell.

21. We may note here that to give further opportunity to the Petitioner to show that whether any of his close relatives from paternal side have been issued any validity certificate as belonging to 'Mana' Scheduled Tribe after conducting vigilance cell enquiry, time was granted twice to the Petitioner. However, he failed to produce such certificate.

22. In the light of the above referred reasons, we reject the submission of the Petitioner that the Scrutiny Committee has

committed error by not relying upon the validity certificate issued in favour of the Petitioner's cousin.

23. In the aforesaid circumstances, the judgments relied upon by the Petitioner are distinguishable and of no help to the Petitioner.

24. In view of the findings recorded herein above, we do not find any merit in the present petition and hence, we pass the following order.

### ORDER

The Writ Petition is dismissed. No order as to costs.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Rgd

**Rakesh  
Dhuriya**

Digitally signed  
by Rakesh  
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