



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

**WRIT PETITION NO. 5559/2019**

Ku. Mayuri D/o. Balwant Dadmal,  
Aged about 21 yrs., Occ. Student,  
R/o. At-Post-Hingna,  
Tah. Hingna, Distt. Nagpur

....**PETITIONER**

....**VERSUS**....

Joint Commissioner & Vice-  
Chairman,  
Scheduled Tribe Caste  
Certificate Scrutiny Committee,  
Adiwasi Vikas Bhavan, Giripeth,  
Nagpur

....**RESPONDENT**

Shri S.R.Narnaware, Advocate for petitioner.  
Shri A.M.Ghagare, AGP for respondent.

**CORAM :** **AVINASH G. GHAROTE AND**  
**SMT. M.S. JAWALKAR, JJ.**

**DATE OF RESERVING THE JUDGMENT:** **03/04/2024**  
**DATE OF PRONOUNCING THE JUDGMENT :** **28/05/2024**

**JUDGMENT** (PER: SMT. M.S. JAWALKAR, J.)

**Rule.** Rule made returnable forthwith.

2. Heard finally by the consent of learned Counsel  
appearing for the parties.

3. The present writ petition questions validity of the order dated 06/08/2018 passed by the respondent/Scheduled Tribe Scrutiny Committee, Nagpur in Case No. सआ/अजप्रतसनाग/I/55/31/2015, invalidating the petitioner's claim of belonging to "Mana" Scheduled Tribe.

4. The petitioner is a student of Bachelor of Science (B.Sc). The petitioner has passed 3<sup>rd</sup> Semester and wants to pursue post-graduation education, for which, she requires Caste Validity Certificate. The petitioner made a Tribe claim of 'Mana' to the respondent No. 1- Schedule Tribe Scrutiny Committee on 26/02/2016, through a letter of Principal of Vidharbh Buniyadi High School and Junior College, Arts, Commerce, Science and M.C.V.C, Om Nagar, Nagpur.

5. The respondent No. 1- Scrutiny Committee handed over the claim of petitioner for verification to the Vigilance Cell for inquiry as the committee was not satisfied with the documents filed by the petitioner. The Vigilance Cell submitted its report of inquiry to the Committee on

01/08/2018. The police vigilance cell report reflects that one entry of grandfather Shri. Sadashiv Harba Dadmal is showing as 'Mani'. The petitioner was called to submit its reply and also asked to submit pre-constitutional documents.

Accordingly, petitioner submitted following documents :

Name	Relation	Document	Date of document	Caste
Balwant Sadashiv Dadmal	Father	Adhar Card	--	--
Balwant Sadashiv Dadmal	Father	Tribe Certificate	11/04/1989	Mana
Balwant Sadashiv Dadmal	Father	Form 'F' Affidavit	25/02/2016	Mana
Balwant Sadashiv Dadmal	Father	Affidavit (regarding inadvertently mentioning of Mani instead of Mana in TC of father)	07/11/2015	Mana
Sadashiv Harba Dadmal	Grandfather	Leaving Certificate of Primary School	01/04/1952	Mani
Sadashiv Harba Dadmal	Grandfather	Tribe Certificate	22/07/1968	Mana
Harba Zibal	Great Grandfather	Adhikar Abhilekh Panji	21/05/1961	--
Davlatram Khemchandra Marwadi	Name is not mentioned in genealogy	Bandobast Khasra	1911-1912	—
Mayuri Balwant Dadmal	Applicant/ Petitioner	Original Tribe Certificate	13/01/2016	Mana
Mayuri Balwant Dadmal	Applicant/ Petitioner	Attested Copy of Tribe Certificate	13/01/2016	Mana

6. It was held by the Committee that the documents produced by the petitioner are not satisfactory to the claim of 'Mana' Scheduled Tribe and accordingly, the Caste Scrutiny Committee invalidated the claim of petitioner on 06/08/2018. The aforesaid order is the subject matter of challenge in the present writ petition.

7. It is the contention of the learned Counsel for the petitioner that the Scrutiny Committee can not distinguish between 'Mana' Caste and 'Mana' Tribe. The Scrutiny Committee failed to consider the validity certificate submitted by the father and uncle of the petitioner. It is further contended that the Scrutiny Committee observed that the petitioner failed to satisfy crucial affinity test but it was held by the Hon'ble Apex Court that while dealing with documentary evidence greater reliance may be placed on pre-independance document because they furnish a higher degree of probative value to declaration of status of a caste and prayed for interference by this Court.

8. The learned Counsel for the petitioner relied on the following judgments/citations:-

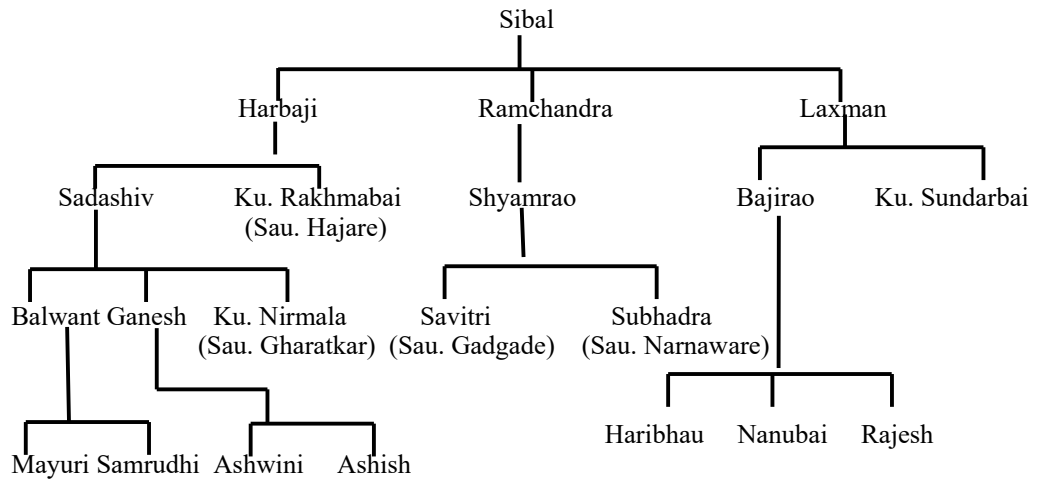
- 1) *Priya Pramod Gajbe V/s. The State of Maharashtra and ors. (Judgment of the Hon'ble Apex Court in Civil Appeal No. 7117/2019 dated 11/07/2023).*
- 2) *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1, Nagpur and others in Writ Petition No.1504/2010 on 27/07/2010.*
- 3) *Gajanan Pandurang Shende Vs The Head Master Govt. Ashram School and Others, in WP No. 3308/2013 dated 08/11/2017.*
- 4) *Shreyas Pradip Dange V/s. State of Maharashtra (Writ Petition No. 3656/2018, decided on 26/9/2018)*
- 5) *Mrunali Shamrao Wakade V/s. The Vice-Chairman/Member Secretary Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli and others [Writ Petition No. 5171/2018]*

9. As against this, the learned Assistant Government Pleader appearing for respondent- Caste Scrutiny Committee supported the order passed by the Scrutiny Committee.

10. Heard learned Counsel for both the parties.

Perused order passed by the Caste Scrutiny Committee and the record of the Caste Scrutiny Committee. It appears that the documents placed before the Committee consistently show that forefathers of the petitioner belong to 'Mana' except one entry of 1952 which is oldest one in respect of grandfather Sadashiv Harba Dadmal shown as belonging to 'Mani'. For the sake of convenience, family tree is reproduced below:

### FAMILY TREE



11. Learned Counsel for petitioner relied on the judgment in *Priya Pramod Gajbe (supra)*, wherein it is held as under:

*“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 10<sup>th</sup> March 1924, while another document of 14<sup>th</sup> 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.”*

So far as affinity test is concerned, the Hon’ble Apex Court referred the judgment in case of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and others, (2012) 1 SCC 113**, wherein it is held that :

*“22....*

*(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, 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 tribes' 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. "*

12. Similar is the view taken in Maharashtra *Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra*, 2023 (2) Mh.L.J. 785, the Hon'ble Apex Court

has in clear terms held that while dealing with the documentary evidence, greater reliance may be placed on pre-independence document because they furnished a higher degree of probative value to the declaration of status of the caste as compare to post independence documents.

13. The learned Counsel for petitioner relied on *Gajanan Pandurang Shende (supra)*, wherein it is held that the caste once included in the presidential list formed a class by themselves. Any division of this classes of persons based on any consideration would amount to tinkering with the presidential list. The classification of entry 'Mana' in different categories for the purpose of confirming a status as a recognized Scheduled Tribe is artificial and without any authority. The Committee has, therefore, committed an error in rejecting the claim by holding that documents produced simply indicate the caste 'Mana' and not 'Mana Scheduled Tribe'. However, it appears that the oldest document dated 01.04.1952, entry in respect of grandfather of petitioner is

shown as 'Mani'. There are two entries of 1952, wherein, Sadashiv Harba shown as 'Mani'.

14. From the documents placed on record, it appears that the oldest entry showing grandfather of the petitioner belongs to 'Mani'. Though petitioner relied on document of Bandobast Khasra of 1911-1912 in respect of one Davlatram Khemchandra Marwadi, this name does not appear in the family tree. Other documents placed on record are subsequent to 1956.

15. The learned counsel relied *Apoorva Vinay Nichale* (Supra), however, there was validity certificate issued by the Committee in favour of the sister of the petitioner. In the present matter, no such certificate issued by the Committee. The learned counsel for the petitioner also relied on *Shreyas Pradip Dange* (supra). In this matter also, there was adjudication by the Court with regard to the claim of the petitioner's father and real uncle. In spite of this fact, the

Committee invalidated the claim. In the present matter, there is no adjudication by any of the Courts in respect of any of the relatives. The learned counsel also relied *Mrunali Shamrao Wakade* (supra) along with other connected petitions. However, the facts involved in the said petitions are different. The Vigilance report in some cases has shown few documents, in which, the caste is recorded either as 'Mane' or 'Mani'. But then availability of the old documents in which caste is recorded as 'Mana' was not in dispute. Learned counsel also relied on *Gajanan Pandurang Shende* (supra). However, in view of judgment of Full Bench of Hon'ble Apex Court it is clear that, while dealing with the documentary evidence, greater reliance may be placed on pre-independence document because they furnish a higher degree of probative value to the declaration of status of a caste as compare to post independence document. As we have observed earlier, in the present matter, there is no pre-independence document showing forefathers of the petitioner belonging to 'Mana'. The oldest entry is of 1952, which is

prior to cut of date, however, in the said entry caste is shown as Mani'. All other entries shown as 'Mana' are subsequent to cut of date i.e. 1956. Petitioner failed to produce documentary evidence as well as failed in affinity test. As such, we do not see any reason to interfere in the order passed by respondent - Caste Scrutiny Committee. Accordingly, the petition is dismissed. Rule is discharged. No costs.

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

(AVINASH G. GHAROTE, J.)

*B.T.Khapekar*