



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

WRIT PETITION NO. 8392 OF 2022

Sakshi d/o. Shrikant Katkar,
Aged about 22 yrs, Occ. Student,
R/o. Dhantoli, Katol, District Nagpur

..... **PETITIONER**

...V E R S U S...

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

2. The Principal, Dadasaheb Balpende
College of Pharmacy, Nagpur

3. The Vice-Chancellor/Registrar,
Rashtrasant Tukdoji Maharaj
Nagpur University, Nagpur

4. The Directorate of Medical
Education & Research,
Maharashtra State, Mantralaya,
Mumbai 32.

.....**RESPONDENTS**

Ms. Preeti Rane, Advocate for the petitioner.

Mr. S.M. Ghodeswar, Assistant Government Pleader for respondent
Nos. 1 and 4.

Mr. A.C. Jaltare, Advocate for respondent No. 2.

Ms. Padma Chandekar, Advocate for respondent No. 3.

CORAM:- NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.

CLOSED FOR JUDGMENT ON :05.08.2024

JUDGMENT PRONOUNCED ON :30.08.2024

JUDGMENT (Per : Abhay J. Mantri, J.)

1. **Rule.** Heard finally, by the consent of the learned counsel for the parties.

2. The challenge is to the order dated 18.10.2022 passed by respondent No. 1 Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur (for short - “*The Committee*”), whereby the petitioner’s claim that she belongs to “*Mana*” Scheduled Tribe came to be rejected.

3. The petitioner’s case is that she belongs to the ‘*Mana*’ Scheduled Tribe. Accordingly, on 29.09.2017, Sub-Divisional Officer Katol issued a caste certificate in her favour. The petitioner completed her education in Pharmacy Course, but for want of a Validity Certificate, respondent Nos. 2 and 3 have neither returned original documents nor declared the result of the 5 to 8 semesters; therefore, through college, the petitioner submitted her caste certificate along with necessary documents to the Committee for verification. The Committee vide order dated 10.08.2018 rejected the caste claim of the petitioner of belonging to the ‘*Mana*’ Scheduled Tribe. The said order was challenged by her in Writ

Petition No. 5175/2018, which petition was partly allowed, and the matter was remanded back to the Committee for fresh decision. On remand, dissatisfied with the documents on record, the Committee called for a detailed enquiry from the Vigilance Cell. After a thorough enquiry, the Vigilance Cell submitted its report to the Committee on 12.01.2022. During the enquiry, the Vigilance Cell noticed adverse entries regarding the claim of the petitioner, and accordingly, the opinion was submitted to the Committee. The Committee, having considered the Vigilance Cell Report, documents on record and the explanation submitted by the petitioner, has invalidated her claim of belonging to the '*Mana*' Scheduled Tribe, hence, this petition.

4. Ms. Preeti Rane, learned Counsel for the petitioner, has vehemently argued that the Vigilance Cell has wrongly collected the documents pertaining to the 'Kate and Gadi family' instead of the Katkar family and relying on the documents of the Kathe family, opined that adverse entries were found during the enquiry. Therefore, rejection of the petitioner's claim is not proper on the part of the Committee. She has argued that the petitioner submitted six pre-constitutional documents from 1909 to 1946 pertaining to

her ancestors, whose caste was recorded as '*Mana* and *Mani*'. These documents are the oldest than those found by the Vigilance Cell during the enquiry. So, she contended that the Committee's finding on the Vigilance Cell report is illegal and not sustainable in the eyes of the law.

5. She further canvassed that the petitioner has submitted three castes 'Validity Certificates' issued in favour of the petitioner's blood relatives, but the Committee has discarded the same on the sole ground that the petitioner failed to demonstrate her relationship with them. The said finding is contrary to the material placed on record and dictum laid down in the case of *Apoorva d/o.Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 and Others [2010(6)Mh. L.J. 401]*, and urged that the petitioner is entitled to the Validity Certificate.

6. Ms. Rane has submitted written notes of argument along with the judgments of the Hon'ble Apex Court as well as this Court and contended that the petitioner substantiated her claim by placing documentary evidence. So also, in view of the law laid down in various cases, the petitioner is entitled to the Validity Certificate.

She has concluded the argument with the submission that the findings given by the Committee based on consideration of incorrect entries, without considering the settled position of law, as such, is not sustainable in the eyes of the law. Hence, she has urged for allowing the petition.

7. *Per contra*, Mr. S.M. Ghodeswar, the learned Assistant Government Pleader, opposed the petition, assailing that the petitioner had failed to demonstrate that Guna and Govinda are the brothers of Raghunath and their father was Shrawan, so she eventually failed to prove her blood relations with them. It is canvassed that the pre-constitutional era document of 1919 pertaining to Nathu Raghunath s/o Shivaji categorically depicts that Natthu Raghunath belongs to the '*Kunbi*' caste, and relying on said document, the Committee has rightly rejected the claim of the petitioner. He further propounded that the Validity Certificates brought on record by the petitioner do not demonstrate that the said Validity holders are in her blood relation, and, therefore, the said certificates are hardly of any assistance to the petitioner in support of her claim.

8. Mr. Ghodeswar, to buttress his submissions, relied upon judgments in *Milind Sharad Katware and Others Vs State of Maharashtra and Others*, (1987) Mh.L.J. 572, *Mana Adim Jamat Mandal*, 2006(4) SCC 98, *Adim Gowari Samaj Vikas Mandal [2020 SCC Online 1040]*, *Raju Ramsingh Vasave (C.A. No. 5308/2008)*, *Priya Pramod Gajbe Vs. The State of Maharashtra and Others* (2023(10) Scale 426 and *Maroti S/o Vyankati Gaikwad and Others Vs Deputy Director & Me Member-Secretary, The Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati and Others (AIR OnLine 2023 Bom 1849)* and submits that if Validity Certificates were granted without holding proper enquiry, then it is not incumbent on the part of the Committee to take into consideration the same while deciding the claim of the petitioner. Thus, he urged that the petitioner has failed to discharge the burden that lies on her to demonstrate that she belongs to the 'Mana' Scheduled Tribe.

9. We have gone through the record, the written notes submitted by the parties, and the judgments relied upon. We have also considered the rival submissions advanced to support their respective claims.

10. At the outset, it seems that the petitioner, in support of her claim, has placed nineteen documents on record, out of which seven are from the pre-constitutional era from 1909 to 1947 pertaining to her ancestors. Those documents are the entries in the school and revenue records of her ancestors, wherein their caste is recorded as “*Mana/Mani*”. The Committee has disputed those documents because the petitioner failed to produce documents demonstrating her relationship with Natthu Ganu. However, we do not find any substance in the said contention, as the petitioner disclosed her father's and other relatives' names in a family tree. The Committee did not take any objection or doubt regarding disclosing the petitioner's family tree. As per the law laid down by the Hon'ble Apex Court in various judgments, these pre-constitutional documents have more probative value than the subsequent documents; hence, there is no reason to discard the said documents.

11. A perusal of the record shows that the Committee and the Vigilance Cell have erred in considering the documents belonging to the Kate and Gadi families, wherein their caste is recorded as “*Kunabi*”. In fact, Kate and Gadi's families have no concerns with the petitioner's family. However, the Vigilance Cell

collected the documents of Kate and Gadi's family and presumed that said entries pertain to his family. The Committee has relied on one entry concerning Nathu Raghunath s/o. Shivaji of the year 1919 wherein Shivaji's caste is recorded as "*Kunbi*," but since Shivaji's name was not shown in the family tree of the petitioner, as such, the entry as '*Kunbi*' therein has no concern with the petitioner's family. Therefore, dealing with the said entry by the committee is not proper. The Vigilance Cell and the Committee relied upon the family tree given by the 'Kate and Gadi family', which families have no concern with the petitioner's family. One more entry relied upon by the Committee was that of 01.07.1919 relating to Narayan, wherein his caste was mentioned as '*Kunbi*,' but Narayan is not shown in the petitioner's family tree. It is to be noted that the petitioner, in explanation, has categorically denied her relationship with Narayan, Shivaji, 'Kate or the Gadi family'. In view of this, it would not be proper to refuse the petitioner's claim on these grounds.

12. For the sake of argument, even if it is assumed that the Vigilance Cell has relied upon the document of 1919 pertaining to Narayan Ganu and Natthu Raghunath s/o. Shivaji, however, the petitioner has placed on record the revenue entries dated

01.06.1909 and 01.09.1911 pertaining to Natthu Ganu and Govind Ganu, who were her cousin's grandfathers; the Committee has not considered the same and observed that the petitioner failed to prove her relationship with them. The said finding appears contrary to the material on record. In view of the above, it cannot be said that the petitioner failed to discharge the burden as contemplated under Section 8 of the Maharashtra Scheduled Caste/Scheduled Tribe, Vimukta Jati, Other Backward Class and Special Backward Class (Regulation of Issuance and Verification of Caste Certificate) Act, 2000, therefore, we do not find substance in the argument of Mr. Ghodeswar.

13. Apart from the above, the petitioner has placed the three validity certificates issued in favour of her blood relatives on record to substantiate her claim. However, the Committee has discarded the same solely on the ground that the petitioner has failed to demonstrate her relationship with them. The said findings appear contrary to the material on record as in the family tree, the petitioner and her father have categorically disclosed their names as relatives. Therefore, it would not be proper to discard the said entries. In addition to this, the petitioner has also relied upon the

order passed by the Scrutiny Committee dated 06.03.2020 declaring the cousin sister, Ms. Shweta Gajanan Katkar, belongs to the “**Mana**” Scheduled Tribe, so also produced a Validity Certificate issued in favour of Pallavi Harish Katkar and Ankit Ramesh Katkar who are her blood relatives.

14. In such an eventuality, in view of the dictum laid down in the case of *Apoorva Nichle*, the Committee ought not to have rejected the claim of the petitioner, but it was incumbent on its part to grant a Validity Certificate in favour of the petitioner of the belonging to “**Mana**” Scheduled Tribe.

15. The Hon’ble Apex Court in the case of *Priya w/o. Pramod Gajbe Vs. State of Maharashtra and others reported in 2023 that SCC OnLine SC 909*, in para 10 of the judgment, has observed that “*entry Mani has to be read as ‘Mana’ Schedule Tribe.*”

16. Thus, to sum up, considering the material on record, it appears that the petitioner, in support of her caste claim, has produced the school and revenue entries pertaining to her ancestors wherein their caste is mentioned as “**Mana/Mani**” of the year from 1909 to 1946 which being the pre-constitutional documents have

more probative value than the subsequent documents and in such an eventuality, based on the documents of the year 1919 by the Vigilance Cell as well as the Committee is not proper to refuse the claim of the petitioner. Moreover, these documents pertain to 'Kate and Gadi's family' and are not related to the petitioner's family. Furthermore, the committee erred in discarding three valid certificates of three blood relatives on the grounds that the petitioner had failed to demonstrate her relationship with them, and the finding was recorded contrary to the family tree on record. The Committee or the Vigilance Cell did not take any objection or doubt regarding the petitioner's family tree on record.

17. In view of the law laid down by the Hon'ble Apex Court in various cases, the pre-constitutional documents have more probative value as well as in view of the dictum laid down in the cases of *Apoorva Nichle* and *Priya Gajbe*, the petitioner is entitled to the Validity Certificate. The findings given by the Committee are contrary to the material on record and the settled position of law, as discussed above.

18. In view of the discussion supra, we deem it appropriate to allow the petition :

i) The petition is allowed.

ii) The impugned order dated 18.10.2022 passed by Respondent No.1 Scrutiny Committee is hereby quashed and set aside.

(iii) It is hereby declared that the petitioner belongs to the “*Mana*” Scheduled Tribe.

iv) The respondent No.1 Committee is directed to issue a validity certificate in favour of the petitioner within four weeks from the date of production of this order.

19. Rule is made absolute in the above terms.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)