



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

**WRIT PETITION NO. 344 OF 2020**

Yogeshwar s/o Toshkrao Chaudhari,  
aged about 54 yrs, Occ. Service,  
R/o Rupnagar, Bijwe Layout,  
Arni Road, Wadgaon, Yavatmal,  
District Yavatmal

..... **PETITIONER**

**...VERSUS...**

1. The Vice Chairman/Member  
Secretary, Scheduled Tribe  
Caste Certificate Scrutiny Committee,  
Chaprashipura, Amravati,

2. The Principal Babaji Date Arts  
and Commerce Junior College,  
Shivaji Nagar, Yavatmal,

3. The President,  
Commerce Trust,  
Shivaji Nagar, Yavatmal,

....**RESPONDENTS**

Ms. Preeti Rane, Advocate for Petitioner.  
Mr. A.V. Palshikar, AGP, for Respondent No.1 /State.

**CORAM:- AVINASH G. GHAROTE & ABHAY J. MANTRI, JJ.**  
**DATE : 23.04.2025**

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

Heard. **Rule.** Heard finally with the consent of the learned  
Advocate for the parties.

2. The challenge is to the order dated 17.12.2019, passed by respondent No. 1, the Scheduled Tribe Certificate Scrutiny Committee, Amravati (for short, "***the Committee***"), which invalidated the petitioner's tribe claim that he belongs to the '***Mana***' Scheduled Tribe.

3. The petitioner claims that he belongs to the 'Mana' Scheduled Tribe. On 21.06.1984, the Executive Magistrate, Ghatanji, issued a Tribe certificate in his favour. Thereafter, his claim was forwarded to the Committee, which invalidated it on 27.07.2004. The petitioner challenged the said order before this Court in Writ Petition No. 5048 of 2004. By order dated 17.07.2017, this Court quashed and set aside the said order and remanded the matter for fresh consideration.

4. Pursuant to the remand of the matter, the Committee forwarded the Tribe certificate, along with the necessary documents, to the Vigilance Cell for enquiry. Accordingly, the Vigilance Cell thoroughly inquired into the matter and submitted its report to the Committee on 16.10.2019, observing that some adverse entries for '*Kunbi, Mani, and Mana Kunbi*' had been discovered. Therefore, the Committee issued a show-cause notice, calling upon the petitioner to submit an explanation. The petitioner submitted his explanation, denying the entry of 1913

pertaining to his ancestor and the other adverse entries. After affording an opportunity to hear the petitioner and considering the documents, the Vigilance Cell report, and the explanation submitted by the petitioner, the Committee has invalidated the claim of the petitioner; hence, this petition.

5. Ms. Rane, the learned Counsel for the petitioner, vehemently contended that the petitioner has produced 12 documents in support of his claim, out of which the document of 1915 pertains to his great-grandfather Nagoji and 3 other pre-constitutional documents from 1941 to 1944 pertaining to his grandfather, wherein their caste was recorded as '*Mana*'. Similarly, the petitioner has produced a validity granted in favour of his cousin brother, Santosh Ramkrushna Choudhary. However, the Committee did not consider the said documents and validity certificate and rejected the petitioner's claim based on some adverse entries discovered during the vigilance enquiry. She has also drawn our attention to said documents as well as the validity certificate. Hence, she submitted that the passing of the impugned order is contrary to the facts on record and the settled position of law, and as such, she has urged that the petition be allowed.

6. As against this, Mr. Palshikar, learned AGP, vehemently opposed the petition on the ground that during vigilance enquiry, 7 adverse entries pertaining to great-grandfather, grandfather, aunt, uncle, and other relatives have been found from 1913 to 1965 wherein their caste has been recorded as Kunbi, Mana, Mana Kunbi. The 1913 entry pertaining to great-grandfather Nagoji, being the oldest document, has more probative value than the subsequent documents. Considering those documents, the Committee rightly rejected the petitioner's claim. He further submitted that the discrepancy regarding the surname appears in the 1915 document, and therefore, the Committee has discarded that document. Similarly, regarding the validity certificate, he submitted that it was issued without conducting a vigilance enquiry, and therefore, the Committee has discarded it. Hence, he submitted that the finding recorded by the Committee is just and proper, and requires no interference by this Court.

7. We have considered the rival contentions of the learned counsel for the parties and perused the impugned order and the case papers. It is pertinent to note that during the hearing, we called the original records in the case of the petitioner and the validity holder, Santosh Ramkrushna Choudhari. We went through both the original records and returned them.

8. The impugned order indicates that the Committee has discarded the validity certificate issued in favour of Santosh, a cousin brother of the petitioner, as it was issued without conducting a vigilance enquiry. Similarly, it was observed that Santosh has obtained the Tribe certificate from the Dy. Collector Nagpur, whose ancestors were residents of the Yavatmal district, therefore, obtaining the said certificate from the Nagpur committee is inappropriate, as they have not considered it. Perusal of the original record of the Committee in the case of Santosh Choudhari reveals that Santosh had filed an application in the prescribed 'Form-E', wherein he categorically stated that since 1986, he has been a resident of Nagpur and his ancestors had resided at Pandhurna, District Yavatmal. He has submitted an original affidavit in 'Form-F' along with said application. He also submitted the following documents in support of his claim:

- i) The original Tribe certificate was issued by Dy. Collector, Nagpur;
- ii) 3 attested copies of the school leaving certificate of himself;
- iii) Birth certificate;
- iv) School Leaving Certificate of his father, Ramkrushna, dated 22.02.1961.
- v) Extract of birth register dated 25.02.1944 wherein it is mentioned that the son was born to Bajirao, whose caste was recorded as *Mana*;
- vi) Entry regarding the birth of a daughter to Balaji;
- vii) Affidavit and other documents.

After considering the 'Form-E' along with the affidavit, the Tribe certificate, and other documents, on 04.05.2019, the Committee granted validity in his favour. We would like to reproduce the said order as under:

ORDER :

*"Shri Santosh Ramkrushan Choudhari (hereinafter referred to as an "applicant") has applied vide his application dated 13.2.2009 for verification of his tribe claim as belonging to Mana, Scheduled Tribe.*

*The Scrutiny Committee verified the proposal submitted by the applicant. The applicant has submitted the required information in Form "E" as per Rule 11(1) and documents thereto as mentioned in Part IV-B, along with his original caste certificate in support of his tribe claim.*

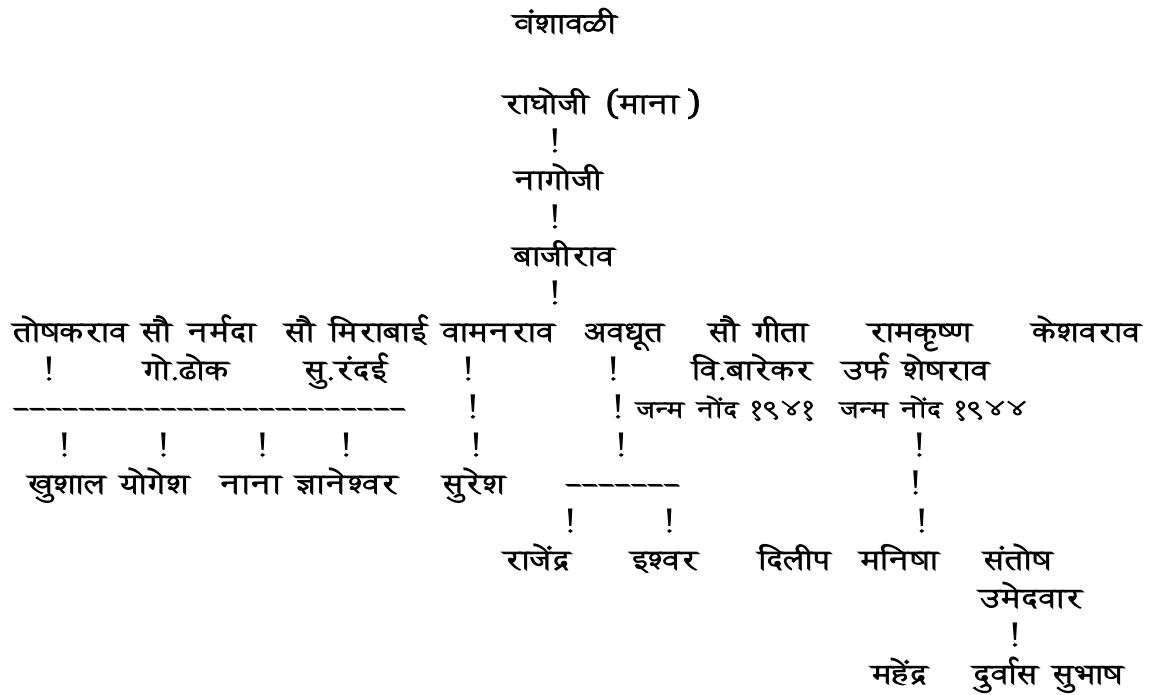
*The Scrutiny Committee has perused the information and documents submitted by the applicant and has appreciated the same. The Scrutiny Committee is fully satisfied after verifying the documents and proofs produced by the applicant in support of his tribe claim. The Scrutiny Committee has come to the conclusion that the tribe claimed by the applicant is a genuine one and therefore, as per the Maharashtra Ct No. XXIII of 2001 and Rule 12(2), dated 4.6.2003, the said case has not been handed over to the Police Vigilance Cell of the Scrutiny Committee for detailed school and home enquiry, and the Scrutiny Committee decided to give a decision on merit.*

*The Scrutiny Committee has come to the conclusion that the documents placed on record are sufficient to prove the applicant's tribe claim towards Mana, Scheduled Tribe.*

*After considering all the evidence on record, we, the Members of the Scrutiny Committee, have unanimously come to the conclusion that the claim of the applicant, as belonging to Mana, a Scheduled Tribe, has been established and proved. Therefore, the caste certificate bearing R.C. No. 6555/MRC-81/07-08 dated 28.5.2008 issued by Dy. Collector Nagpur is held valid, as per the Hon'ble Supreme Court's decision in C.A. No. 5270/2004. The*

*validity of tribe certificate be issued accordingly to the applicant”.*

9. Similarly, we would like to refer to the genealogical tree given by Santosh at the time of his claim, which is as under:



10. It is pertinent to note that the petitioner is claiming validity based on the validity issued in favour of his cousin brother, Santosh, as the validity granted to Santosh is neither denied nor disputed by the vigilance cell or the committee. Apart from this, the Committee has neither cancelled nor challenged said validity certificate until this date. Therefore, the petitioner contended that in view of Rule 16(3) of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category

(Regulation of Issuance and Verification of) Caste Certificate Rules, 2012(referred to as “*the Rules*”), the petitioner is entitled to validity without asking for other documents as proof. Thus, in view of the provisions of Rule 16(3), we do not see any reason as to why the validity ought not to be granted to the petitioner, as the reason for not relying on the said validity does not commend itself to us.

11. A bare perusal of the order dated 04.05.2009, passed by the then Committee, indicates that after verifying the documents and being fully satisfied, the Committee granted validity to Santosh. It appears that the Committee has verified the proposal submitted by Santosh, along with “*Form-E*” and other documents, in its proper perspective, as per Rule 11(1) of the Rules. It also appears that Santosh has produced two extracts of the Birth and Death Register of the village Mandwa, wherein it is mentioned that on 25.02.1944, a son was born to Bajirao and on 21.04.1941, a daughter was born to Bajirao. In both the extracts, the caste of Bajirao was recorded as ‘*Mana*’. The then Committee did not dispute the said documents, and after considering those documents, the Committee, having fully satisfied itself about the genuineness of the documents, granted validity to Santosh. A perusal of the genealogical tree provided by Santosh to the Committee indicates that the petitioner is his



cousin brother. That being so, it was incumbent on the Committee to assign a cogent reason for discarding the validity granted in favour of Santosh. Mere recording the reason that the same was obtained without conducting a vigilance enquiry is not sufficient to discard it, since the then Committee followed the procedure as prescribed under the Rules and was satisfied about the genuineness of those documents. Similarly, we do not see any reason to discard said validity on the ground that Santosh has obtained a Tribe certificate from the Dy. Collector, Nagpur, when his ancestors were residents of Yavatmal district; however, a perusal of ‘*Form E*’ indicates that Santosh, in ‘*Form E*’, categorically mentioned that he has been residing in Nagpur since 1986, and his ancestors were living in Pandhurna. This shows that he has clarified the said fact and not suppressed it from the then Committee; therefore, we do not see any reason for not considering the validity on this ground.

12. As against this, based on the said validity as well as the provisions stipulated in Rule 16(3) of the Rules and the dictum laid down in ***Apoorva d/o Vinay Nichale vs Divisional Caste Certificate Scrutiny Committee No.1 and others (2010(6) Mh.L.J. 401 (“Apoorva Nichle”)*** the petitioner’s claim ought not to have been refused and the same status would have been awarded to the petitioner that he belongs to “*Mana*” Scheduled Tribe. Thus, his case is covered by the law laid down in ***Apoorva Nichle’s*** case (supra).

13. The second ground for rejecting the petitioner's claim was that during the vigilance enquiry, the Vigilance Cell discovered a document dated 26.08.1913 and five other documents from 1913 to 1965 pertaining to his great-grandfather, aunt, uncle, and cousin's sister. The documents of 1913, being the oldest ones, the Committee has refused to grant validity in favour of the petitioner. On the other hand, the petitioner categorically denied the document of 1913 and claimed that he was not concerned with it. He has specifically denied the alleged entry and his relationship with the person, contending that he has no concern with the entry or the person. Learned counsel for the petitioner also drew our attention to said entry and submitted that neither the father's name nor surname has been mentioned in the said entry. In such circumstances, it was incumbent on the Committee to record a reason for believing the entry, when the petitioner had categorically denied it by filing an explanation; however, the Committee did not record a reason for discarding the explanation submitted by the petitioner. If the entry dated 26.08.1913 is ignored, then the second entry, on which the petitioner relies, is dated 06.07.1915. The said entry is an extract of the Birth and Death Certificate, which denotes that a son born to Nagoji Chudari and his caste was recorded as "*Mana*".

The petitioner claims that said entry pertains to his great-grandfather, Nagoji, and his name was also mentioned in the genealogical tree. However, inadvertently, the surname Chudari is mentioned instead of Choudhari. The Committee has discarded the said document because a discrepancy appears in the surname of the petitioner's great-grandfather; therefore, the Committee has not considered the document. A perusal of the said entry indicates the discrepancy in Nagoji's surname. However, the vigilance cell in its report has not disputed the entry of 1915 as the great-grandfather of the petitioner Nagoji. Therefore, there is no reason to discard the said entry only on the ground that a discrepancy appears in the surname, but the said discrepancy could occur due to human error while mentioning the surname Choudhary, which was recorded as Chudari. Non-dispute of the said entry by the vigilance cell would connote that the said entry pertains to the great-grandfather of the petitioner, and therefore, there is no reason to discard the same. Besides, the vigilance cell also discovered the said entry during the enquiry. Thus, the said entry, being the oldest one, seems to have more probative value than the subsequent entries.

14. The Hon'ble Apex Court in *Maharashtra Adiwasi Samaj Sanrakshan Samiti Vs The State of Maharashtra, 2023(2) Mh. L.J. 785* has held

that “the affinity test cannot be termed as a litmus test. Likewise, the oldest pre-constitutional document has more probative value than the subsequent document”. Thus, it appears that the finding regarding the affinity test seems contrary to the mandate laid down by the Hon’ble Apex Court, and also the finding based on the disputed document of 1913 seems contrary to the settled position of the law.

15. To sum up the above discussion, it is evident that the petitioner, to substantiate his claim, has produced validity granted in favour of his cousin brother Santosh and four pre-constitutional era documents from 1915 to 1944 pertaining to his great-grandfather, grandfather, wherein their caste had been recorded as ‘**Mana**’. The authenticity of the said documents and entries made therein is neither disputed nor denied by the committee nor the vigilance cell. Therefore, there is no reason to discard the same as they have a greater probative value. Thus, it seems that the finding recorded by the committee is based on the disputed document of 1913, which the petitioner categorically denied the said entry and his relationship with the person mentioned therein. As such, the finding recorded by the committee appears contrary to the documents on record and the mandate laid down by the Hon’ble Apex Court.

In the wake of the above, the impugned decision cannot be sustained in the eyes of the law, hence, we allow the petition and quash and set aside the impugned order dated 17.12.2019, passed by the respondent No. 1 Committee. It is hereby declared that the petitioner belongs to the '**Mana**' Scheduled Tribe. The respondent No. 1 Committee is directed to issue a validity certificate in favour of the petitioner within four weeks from the date of receipt of a copy of this judgment and order.

Rule is made absolute in the above terms. No costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)