



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

WRIT PETITION NO. 6338 OF 2018

1. Laxman Nanaji Nannaware,
aged 54 years, Occ. Service as
Instructor, Industrial Training
Institute, r/o Sadashiv Nagar,
Chikhalgaon, Wani, Dist. Yavatmal.
2. Ku. Sneha Laxman Nannaware,
aged 28 years, Occ. Student,
r/o Sadashiv Nagar, Chikhalgaon,
Wani, Dist. Yavatmal.
3. Ku. Sheetal Laxman Nannaware,
aged 26 years, Occ. Student,
r/o Sadashiv Nagar, Chikhalgaon,
Wani, District Yavatmal.

.. Petitioners

Versus

1. Scheduled Tribe Caste Certificate
Scrutiny Committee through its
Member Secretary, Chaprasipoura,
Amravati.
2. The Principal,
Industrial Training Institute, Zari
Jamni, District Yavatmal

.. Respondents

Mr. P.R.Parsodkar, Advocate for petitioner.
Ms.N.P.Mehta, Additional Government Pleader for respondent
Nos.1 and 2.

**CORAM : NITIN W. SAMBRE AND
ABHAY J. MANTRI, JJ.**

RESERVED ON : 29/07/2024

PRONOUNCED ON : 19/08/2024

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

Rule. Heard finally with the consent of the learned counsel appearing for the parties.

(2) The petitioners have challenged the order dated 25/05/2018 passed by respondent No.1 Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for short '*the Committee*'), whereby the claim of the petitioners that they belong to "Mana" (Scheduled Tribe) came to be rejected.

(3) The petitioners claimed to be belonging to "Mana" (Scheduled Tribe). Accordingly, Sub Divisional Officer Wani issued caste certificates in their favour.

(4) On 22/02/2005, petitioner No.1 Laxman submitted the caste certificate and relevant documents before the Committee for his caste verification. The Committee, vide order dated 20/12/2017, invalidated his claim. He challenged the said order by filing Writ Petition No.3078/2008. This Court, vide order dated 26/07/2017, set aside the order passed by the Committee and the matter was remitted back to the Committee for deciding afresh.

(5) The petitioner No.2 Sneha, for her education purpose, she had applied to the Committee to verify her tribe claim on 15/03/2005. However, her caste claim was invalidated on 14/09/2011. She challenged the said order by filing Writ Petition No.5085/2011. This Court vide order dated 15/03/2012 quashed and set aside the order passed by the Committee, and the matter was remitted back to the Committee.

(6) Petitioner No.3 Sheetal approached the Committee on 30/11/2005 to verify her tribe claim. The Committee, vide order dated 14/09/2011, invalidated her tribe claim. Aggrieved by this, she challenged the said order by filing Writ Petition No.5772/2011. This Court, vide order dated 15/03/2012, quashed and set aside the order passed by the Committee and directed the petitioner No.3 to appear before the Committee on 03/04/2012.

(7) The Committee was dissatisfied with the documents produced by the petitioners and forwarded the same to the Vigilance Cell for a detailed enquiry. After conducting a thorough inquiry, the Vigilance Cell submitted its report to the Committee on 27/04/2005 and 16/12/2015. During the enquiry, the Vigilance Cell discovered adverse entries as "Mani" in the documents. Therefore, show cause notices were issued to the petitioners to explain the said adverse entries. Then, petitioners were called upon for a hearing on

02/04/2018. Petitioner No.1 Laxman, for himself and on behalf of petitioners Nos.2 and 3, appeared before the Committee and furnished the reply along with the documents.

(8) Considering the petitioners' submissions, the vigilance cell report and documents on record, the Vigilance Cell invalidated the petitioners' claim by an impugned order dated 25/05/2018. As such, this petition.

(9) Mr. Parsodkar, learned Counsel for the petitioners, vehemently submitted that petitioners, in support of their claim, have produced as many as 50 documents, out of which two documents of the year 1937 pertain to the grandfather of the petitioner No.1 Laxman. The said documents are copies of birth extracts, wherein his grandfather's caste was recorded as "Mana". These two documents are pre-constitutional era documents and have more probative value than subsequent documents. However, the Committee rejected the claim of the petitioners on the grounds that some "Mani" entries were found during the Vigilance Cell enquiry; therefore, they rejected the claim.

(10) Relying upon the judgment in the case of **Priya Pramod Gajbe vs. State of Maharashtra and others** reported in **2023 SCC OnLine SC 909**, learned Counsel submits that said question is no more *res integra*. In the said judgment, the Apex Court observed that "there is no caste named as "Mani" and, therefore, held that "the said entries

ought to have been read as a "Mana" (Scheduled Tribe). Therefore, he has urged for allowing the petition.

(11) As against above, Ms. Mehta, learned Additional Government Pleader, vehemently argued that during the Vigilance Cell enquiry, the Vigilance Cell found the adverse entries from 1956 to 1968, wherein the caste of the ancestors of the petitioners was recorded as "Mani" and they failed to explain the same. Therefore, she argued that the petitioners failed to discharge the burden cast upon them under Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short, - "the Act".) Therefore, she urges for rejection of the petition.

(12) We have considered the rival submissions of the parties and perused the impugned order and record. We have gone through the law laid down in the case of **Priya Gajbe** (cited supra).

(13) At the outset, it appears that petitioners have produced 50 documents in support of their claim; out of them, two documents are from the year 1937 and pertain to the grandfather of petitioner No.1, wherein his caste is recorded as "Mana". Neither the Vigilance Cell nor the respondent No.1 Committee have disputed or denied the said documents. Therefore, as per the dictum laid down in various

judgments of the Apex Court, the pre-constitutional era documents have more probative value than the subsequent document.

(14) *Moreover, it seems that solely based on the adverse entry as "Mani", the caste claims of the petitioners came to be rejected by the respondent No.1 Committee. However, as per the dictum laid down in the case of **Priya Gajbe** (cited supra), the "Mani" entries ought to have been read as a "Mana" (Scheduled Tribe) as there is no caste named "Mani" exists. We would like to reproduce para 10 of the said judgment, which reads thus:-*

"10. A perusal of the report of the Vigilance Committee itself would reveal that the appellant's great grandfather's birth record shows 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 that the learned counsel for the parties also agrees 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 the original record is written in Marathi and not in English. As such, such an error is quite possible."

(15) *Besides, in the said judgment, it is observed that "the affinity test cannot be termed a litmus test, as well as a pre-constitutional era document having more probative value than the subsequent document."*

(16) In the background above and applying the law laid down in the matter of **Priya Gajbe** (cited supra), it is to be held that the respondent Committee ought not to have rejected the claims of the

petitioners on the ground that adverse entries as "Mani" were found during the Vigilance Cell enquiry.

(17) To sum up, it reveals that the petitioners, to substantiate their claim, have produced documents of the year 1937, wherein their ancestor's caste is recorded as "*Mana*", and those documents have more probative value. Furthermore, the said documents are undisputed. As such, the petitioners have discharged the burden cast on them as contemplated u/s 8 of the said Act. In this background, in our opinion, the Committee has erred in rejecting the claims of the petitioners. That being so, we deem it appropriate to allow the petition.

(18) The petition stands allowed. The impugned order dated 25/05/2018 passed by respondent Committee is hereby quashed and set aside. It is hereby declared that petitioners belong to the "*Mana*" Scheduled Tribe category. Respondent No.1 is directed to issue validity certificates in favour of the petitioners within four weeks from the date of production of copy of this judgment.

(19) Rule is made absolute in the aforesaid terms. No order as to costs.

[**Abhay J. Mantri, J.**]

[**Nitin W. Sambre, J.**]

KOLHE