

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

Writ Petition No.6866/2022

Ku. Renuka Gangadhar Jambhule,
Aged about 35 yrs., Occ. Private,
R/o.Plot No.8, Vishwas Nagar, Near Prajapati Nagar,
Yavatmal 445001.

.... Petitioner.

Versus

Joint Commissioner and Vice-Chairman,
Scheduled Tribe Caste Certificate Scrutiny Committee,
B-Wing, 1st Floor, Dr. Babasaheb Ambedkar Social
Justice Deptt. Camp Road, Amravati-444606. Respondent.

Mr. S.R. Narnaware, Advocate for the petitioner.
Ms. K.P. Marpakwar, AGP for the respondent.

CORAM : Nitin W. Sambre & Abhay J. Mantri, JJ
DATE : 06-03-2024.

J u d g m e n t (Per Abhay J Mantri, J.)

Rule. Rule is made returnable forthwith and heard finally with the consent of learned Counsel for the parties.

2. The petitioner being dissatisfied with the order dated 28-04-2022 passed by the respondent No.1 Joint Commissioner and Vice Chairman, Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for short-'*the Scrutiny Committee*'), thereby invalidating the claim of the petitioner that she belongs to '*Mana*' Scheduled Tribe category, has preferred this petition.

3. It is a case of the petitioner that she belongs to the '*Mana*' Scheduled Tribe. In the year 2006, the petitioner applied

to respondent No. 1 Scrutiny Committee for verification of her tribe claim that she belongs to the '*Mana*' Scheduled Tribe. However, her claim was invalidated on 30-06-2007. Being aggrieved by the said order, the petitioner has filed Writ Petition No.4601/2007 before this Court. This Court by an order dated 22-07-2009, quashed and set aside the order passed by the then respondent no.1-Scrutiny Committee and directed it to hold a fresh inquiry.

4. Then petitioner was admitted to a D.Ed. college. Accordingly, she submitted her caste certificate to the college as she belongs to the '*Mana*' Scheduled Tribe, which was forwarded by the college to respondent No.-1 Scrutiny Committee for its verification.

5. The Scrutiny Committee was not satisfied with the said documents; therefore, the matter was referred to the vigilance cell. Based on the Vigilance Cell report dated 10-04-2006 and after considering the documentary evidence, the Scrutiny Committee invalidated the caste claim of the petitioner. Being aggrieved by the same, the petitioner has preferred this petition.

6. Learned Counsel for the petitioner strenuously argued, that the petitioner in support of her claim has produced a document dated 08-04-1933 which denotes that the great-grandfather of the petitioner was of '*Mana*' Scheduled Tribe, so also the document dated 08-05-1959 pertains to her grandfather

shows that he belongs to '*Mana*' caste. However, the Scrutiny Committee has not taken into consideration the said documents and erred in relying on the documents of the cousin grandfather of the years 1953 and 1957 wherein his caste was shown as '*Mani*'. He further submitted that no '*Mani*' caste is in existence, but due to a mistake in writing when the caste was written it was wrongly written as '*Mani*' instead of '*Mana*'. He further submitted that as per the judgment in the case of *Priya Pramod Gajbe vs State of Maharashtra and others*, reported in *2023 SCC OnLine SC 909*, it seems that no caste '*Mani*' is in existence and therefore the said observation of the Scrutiny Committee is not come in the way of the petitioner to claim that she belongs to '*Mana*' Scheduled Tribe. He further argued that this Court by order dated 22-12-2023 directed the petitioner to place on record the caste validity certificate of Ku. Janvi to establish a relationship with her. Accordingly, on 09-01-2024, the petitioner placed on record a copy of the affidavit establishing the relationship with Ku. Janvi. Therefore also, as per the case of *Priya Gajbe (supra)*, the petitioner is entitled to claim the relief.

7. *Per contra*, learned Assistant Government Pleader appearing for the respondent-Scrutiny Committee resisted the petition on the ground, that during the enquiry the Vigilance Cell found two documents of the years 1953 and 1957 depicting that the cousin grandfather of the petitioner belongs to '*Mani*' and in the documents of the year 1974, the caste '*Kunbi*' was scored

down and rewrite as 'Mana'. Therefore, he has urged that the order passed by the Scrutiny Committee be just, and proper, and no interference is required in it.

8. We have considered the rival submissions of the parties and gone through the record and the impugned order. It emerges that the petitioner in support of her claim has produced a document dated 08-04-1933 about her great-great-grandfather i.e. the Birth Register, wherein it is mentioned that one child is born to Rungiya (Ramrao). It is pertinent to note that neither the Vigilance Cell nor the Scrutiny Committee have disputed the genuineness of the said document, therefore, there is no reason to discard the said document while considering the claim of the petitioner.

9. It further appears that the vigilance Cell as well as the Scrutiny Committee has given undue importance to the extract of the admission register for the years 1953 and 1957 wherein, the petitioner's cousin grandfather's caste entry was shown as '*Mani*' and therefore observed that the petitioner failed to prove her caste as '*Mana*'. While considering these documents we would like to state, that in the case of Priya Gajbe (supra), the Hon'ble Apex Court in paragraph 10 has categorically observed that "*there is no caste by the name 'Mani'. It is thus possible that there could be some mistake in writing when the caste was written, as the original record is written in Marathi and not in English, and as*

such the error is quite possible.” In such an eventuality, the Hon'ble Apex Court has held that “*there was no reason to discard the pre-constitutional documents,*” As such, in view of the observations made in the said Authority this can be inferred that due to a mistake in writing, the caste of the relatives of the petitioner was shown as '*Mani*' instead of '*Mana*'. The third document on which the Scrutiny Committee relied is of the year 1974 which is the extract of admission, wherein their caste was shown as 'Kunbi Mana', however, later on, the entry of caste 'Kunbi' was struck off. Therefore, also the said document is not much more helpful to the Scrutiny Committee while considering the claim of the petitioner.

10. It is pertinent to note that the petitioner has produced the documents of the years 1933 and 1959, wherein the caste of her great-great-grandfather and grandfather was shown as '*Mana*'. The said document is of the pre-constitutional era and has greater probative value than the subsequent documents of the years 1953, 1957, and 1974. Moreover, as per the judgment of the Priya Gajbe (*supra*), the entry of caste 'Mani' mentioned in the documents of the years 1953 and 1957 is not sufficient to discard the claim of the petitioner, but the oldest documents of the year 1933 will prevail and can safely rely on the said document.

11. It further appears that in Writ Petition No.4601/2007, this Court has directed respondent no.1-Scrutiny Committee to

grant validity certificate in favour of the cousin sister of the petitioner and accordingly the Scrutiny Committee has granted the validity in her favour. In such circumstances, the dictum laid down in the case of **Apoorva Nichle** (supra), is squarely applicable to the case in hand. Therefore, the petitioner is also entitled to claim a validity certificate.

12. To sum up the above discussion, it reveals that the Scrutiny Committee has ignored to consider the pre-Constitutional document of the year 1933, contrary to the dictum laid down by the Hon'ble Apex Court in the case of *Anand vs Committee for Scrutiny and Verification of Tribe Claims and others*, reported in *2011(6) Mh.L.J. 919*, and *Priya Gajbe* (supra), as the respondent no.1-Scrutiny Committee has not disputed the genuineness of the documents of the year 1933. Therefore, the petitioner is certainly entitled to claim that she belongs to the 'Mana' Scheduled Tribe.

13. That being so, it reveals that the Scrutiny Committee has erred in ignoring the pre-Constitutional document and giving undue importance to the post-Constitutional era documents of the years 1953 and 1957. Therefore, based on the above findings, the impugned order cannot be sustained in the eyes of the law and the same is liable to be set aside.

14. In the light of above discussion, we proceed to pass the following order :-

- (a) The impugned order dated 28-04-2022 passed by respondent no.1 Scrutiny Committee is hereby quashed and set aside.
- (b) It is declared that the petitioner has proved that she belongs to the '*Mana*' Scheduled Tribe.
- (c) Within a period of four weeks from the receipt of a copy of this judgment respondent no.1- Scrutiny Committee shall issue Caste Validity Certificate in favour of the petitioner.

15. Rule is made absolute in the above terms with no order as to costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J)

Deshmukh