



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

WRIT PETITION NO. 279 OF 2020

Vaibhav s/o Chandrashekhar Dadmal,
Aged about 23 years, Occ. – Student,
R/o Chichghat, Post–Ambadi (Begade),
Tahsil – Chimur, District – Chandrapur.

.... **PETITIONER**

VERSUS

- 1) Scheduled Tribe Certificate Scrutiny
Committee, Gadchiroli, through its
Chairman, Committee for Scheduled
Tribe Claims, Office at Complex Area,
Gadchiroli, Tq. & District Gadchiroli.
- 2) State of Maharashtra,
through its Secretary, Tribal Development
Department, Mantralaya, Mumbai-32.
- 3) The Director of Technical Education,
Maharashtra State, 3 Mahapalika Marg,
Mantralaya, Mumbai-32.
- 4) The Principal,
Dr. Babasaheb Ambedkar Technological
University (Autonomous) Lonere,
Mangaon, Raigad.
- 5) Sub-Divisional Officer, Warora,
Tahsil – Warora, District – Chandrapur.

.... **RESPONDENTS**

Mr. P.P. Dhok, Counsel for the petitioner,
Mr. A.S. Fulzele, Addl. G.P. for the respondent Nos.1 to 3 & 5

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

DATE : 25th MARCH, 2025

JUDGMENT : (Per : ABHAY J. MANTRI, J.)

Heard. **RULE.** Heard finally with the consent of the learned Counsel for the parties.

2. The petitioner, being aggrieved by the order dated 26-06-2018 passed by respondent No.1-Scheduled Tribe Certificate Scrutiny Committee, Gadchiroli (for short, “*the Committee*”), thereby invalidating the caste claim of the petitioner that he belongs to the ‘*Mana*’ Scheduled Tribe, has preferred this petition.

3. The petitioner claims that he belongs to the ‘*Mana*’ Scheduled Tribe. On 04-06-2010, the Sub-Divisional Officer, Warora, issued a Caste Certificate in his favour. The petitioner was selected for the B.Tech. Electronic Technology course in Scheduled Tribe category. Accordingly, he has submitted a Caste Certificate along with other documents to the college. The Principal of the College forwarded the same to the Committee for its verification. The Committee was dissatisfied with the documents and forwarded them to the Vigilance Cell for enquiry. The Vigilance Cell conducted the enquiry and submitted its report to the Committee on 08-03-2018. Pursuant to the report, the Committee issued a show cause notice to the petitioner, calling upon his explanation about the Committee's adverse finding. The petitioner submitted his explanation. After affording an opportunity of hearing and considering the

documents on record, the vigilance cell report, and the explanation, the Committee has invalidated his claim that he belongs to the ‘*Mana*’ Scheduled Tribe. Hence, this petition.

4. Mr. P. P. Dhok, learned Counsel for the petitioner, vehemently contended that the petitioner, to substantiate his claim, had produced twenty-four documents on record; out of them, one document of the year 1920-23 pertains to his great-great-grandfather. He also produced his uncle Bhimraj's Validity Certificate. However, the Committee has not considered those documents and erred in rejecting the petitioner's claim solely on the ground that the petitioner failed to satisfy the affinity test and, therefore, rejected the petitioner's claim. The said finding appears contrary to the mandate laid down by the Hon'ble Apex Court in the case of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. State of Maharashtra and others, 2023(2) Mh.L.J. 785*. Therefore, he canvassed that based on the validity granted in favour of his uncle, the petitioner is entitled to get the validity certificate as per Rule 16(3) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 (for short- “*Rules of 2012*”).

5. As against this, Mr. A.S. Fulzele, learned Additional Government Pleader, strenuously opposes the petition, contending that the petitioner failed to satisfy the affinity test as well as the claim has been hit by the area restriction. He further canvassed that during the enquiry, the Vigilance Cell discovered the sale-deeds executed by the ancestor of the petitioner, wherein no caste was mentioned and, therefore, the petitioner failed to demonstrate that he belongs to the 'Mana' Scheduled Tribe. He further argued that without conducting the vigilance cell enquiry, the Validity was granted in favour of Bhimraj; therefore, the same cannot be taken into consideration. Thus, he submitted that the impugned order is just and proper, and no interference is required in it.

6. We have appreciated the rival submissions and perused the impugned order and record. We have gone through the original record and returned it.

7. At the outset, it appears that the petitioner has produced twenty-four documents to substantiate his claim; one document is from 1920-23 and pertains to his great-grandfather. Neither the Committee nor the Vigilance Cell has disputed the said document. However, the Committee has discarded the same on the ground that the recording of

the entry as 'Mana' does not mean that the same pertains to the Scheduled Tribe Category and discarded the said document. The said finding is contrary to the settled position of law that entries in pre-constitutional documents have to be given preference and cannot be discarded and, therefore, cannot be sustained in the eyes of law. Apart from this, the Vigilance Cell during the enquiry discovered the document of 1918-1919 pertaining to the great-grandfather of the petitioner, wherein his caste was recorded as 'Mana'. The said document is also from the pre-constitutional era and has more probative value than the subsequent documents. Moreover, none of the entries were found adverse to the said entry, but the petitioner's claim was rejected only on the ground that the petitioner failed to satisfy the affinity test. It is pertinent to note that the Hon'ble Apex Court in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*** (supra) has categorically observed that "*the affinity test cannot be termed as a litmus test, mainly when the pre-constitutional era documents are existing and placed on record, and the oldest pre-constitutional document has more probative value than the subsequent document*". Besides, the said test cannot be said to be conclusive to find out whether the petitioner belongs to the Scheduled Tribe Category or not. Similarly, the second ground for rejecting the claim is area restriction; in our opinion, the question of area restriction does not arise as the same has been removed since 1976. Therefore, the finding regarding the affinity test and area restriction appears

to be contrary to the mandate laid down by the Hon'ble Apex Court, and the same cannot be sustained in the eyes of the law.

8. In addition to this, the petitioner had produced the validity certificate granted in favour of his uncle. The Committee has not considered the same, only on the ground that the same was issued without conducting the vigilance cell enquiry. It is pertinent to note that the said validity certificate was issued on 09-12-2010. Till this date, the Committee has neither cancelled the same nor taken any steps to recall the same. Therefore, in view of the dictum laid down in the case of *Apoorva Vinay Nichale v Divisional Caste Certificate Scrutiny Committee No.1, and others, 2010 (6) Mh.L.J. 401*, the Committee ought not to have refused to grant the validity certificate in favour of the petitioner, but, as per Rule 16(3) of the Rules of 2012, was required to grant validity certificate in favour of the petitioner without asking any other documentary proof after following the procedure as enumerated in the relevant Rules. We do not see any reason as to why the validity ought not to have been granted to the petitioner as the reasons for not relying upon the validity certificate and documents produced on record in respect of his uncle and ancestor, do not commend to us.

9. To sum up the above discussion, it is evident that the petitioner, to substantiate his claim, has relied upon the pre-constitutional era documents of 1918-19 and 1920-23 pertaining to his great-great-grandfather, wherein his caste has been recorded as '*Mana*'. Those documents are neither disputed

by the Committee nor the Vigilance Cell. Therefore, there is no reason to disbelieve those documents. On the contrary, the said documents have great probative value. Similarly, based on the validity certificate issued in favour of the uncle of the petitioner, the Committee ought to have granted the validity certificate in favour of the petitioner in terms of Rule 16(3) of the Rules of 2012 as well as the dictum laid down in *Apoorva Vinay Nichale* (supra). Thus, it seems that the findings recorded by the Committee based on the affinity test and the area restriction cannot be sustained in the eyes of the law, and the same are liable to be set aside.

10. As a result, we allow the petition. The impugned order dated 26-06-2018 passed by the Committee is hereby quashed and set aside. It is hereby declared that the petitioner belongs to the '*Mana*' Scheduled Tribe. The respondent-Committee is directed to issue a Validity Certificate in favour of the petitioner within four weeks from the production of a copy of this judgment.

11. Rule is made absolute in the above-said terms.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

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