



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

WRIT PETITION NO. 4037 OF 2014

Priya d/o Uddhav Garmale
Aged about 20 yrs, Occ Student,
R/o. Mohadi, Tah. Sindewahi,
Dist. Chandrapur

..... **PETITIONER**

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

1. The Scheduled Tribe Caste Certificate
Scrutiny Committee, Gadchiroli,
through its Chairman,

2. The Director,
Maharashtra State Education,
Research and Training Council, Pune,

3. The Principal Yashodabai Khare
D.Ed. College, Jhansi Rani Chowk,
Sitabuldi, Nagpur

.....**RESPONDENTS**

Ms. Preeti Rane, Advocate with Ms. Himani Kavi, Advocate for the
petitioner.

Mr. P.P. Pendke, AGP for respondent Nos. 1 and 2/State.

Mr. Ketan Bhoskar, Advocate for respondent No.3.

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

DATE : 14.02.2025

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

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

2. The challenge is to the order dated 07.03.2014, passed by respondent No.1 Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli (for short-“*the Committee*”), thereby invalidating the petitioner's claim that she belongs to the ‘*Mana*’ Scheduled Tribe.

3. In short, the case of the petitioner is as follows:

The petitioner claims that she belongs to the ‘*Mana*’ Scheduled Tribe, and accordingly, the Sub-Divisional Officer, Bramhapuri, has issued a caste certificate in her favour. The petitioner, through Sarvodaya Girls High School and Junior College, Siddheshwari, has submitted the caste certificate to the Committee for verification. The Committee, being dissatisfied with the documents placed on record, forwarded the proposal to the Vigilance Cell for detailed enquiry. The Vigilance Cell has thoroughly conducted the enquiry and submitted its report to the Committee, whereupon the Committee has called upon the petitioner to explain adverse observations in the report of the Vigilance Cell. The petitioner appeared and explained the adverse observations, thereby denying the same.

After considering the report, the explanation, and other relevant documents on record, the Committee invalidated the petitioner's claim of belonging to the 'Mana' Scheduled Tribe; hence, this petition.

4. We have considered the rival contentions of the parties, gone through the original case record, which was immediately returned, and gone through the citations relied upon by the petitioner.

It is to be noted that vide order dated 15.06.2015, this Court issued "**Rule**" which was made returnable early.

5. Ms. Himani Kavi, the learned Counsel for the petitioner, vehemently contended that the petitioner, in support of her claim, has produced nine documents on record, out of which two are from the pre-constitutional era of the year 1921-22 and 1948-49 pertaining to her grandfather and great-grandfather wherein their tribe has been recorded as 'Mana' and other documents of the year 1959 to 2009 also denote her relatives belong to 'Mana' Scheduled Tribe. She further contended that the Committee had issued a validity certificate to her two real brothers, Pranay and Sarang, and

two more cousins; therefore, as per the law 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 ("Apoorva Nichle")*, the petitioner is entitled to Validity Certificate. However, the Committee has not considered the same and erred in holding that though the documents of 1921-22 depict the caste of her great-grandfather was recorded as 'Mana'. The 7/12 extract in respect of the applicant's father does not bear endorsement as is necessary under Section 36 and 36A of the Maharashtra Revenue Code to the effect that the landholder is a Scheduled Tribe, and transfer of land is prohibited as is seen in the case of Scheduled Tribe landholders and therefore, has rejected the application of the petitioner. She further argued that such a finding is contrary to the settled position of law and the documents on record and cannot be sustained; hence, she urged for allowing the petition. Reliance is also placed on the law laid down by the Hon'ble Apex Court in *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs State of Maharashtra and others, AIR 2023 SC 1657*.

6. As against the above, learned AGP Mr. Pendke resisted the claim on the ground that the findings recorded by the Committee that the 7/12 extract in respect of the applicant's father

does not bear endorsement as is necessary under Section 36 and 36A of the Maharashtra Revenue Code to the effect that the landholder is a Scheduled Tribe and transfer of land is prohibited as is seen in the case of Scheduled Tribe landholders, therefore, submitted that said finding is just and proper which requires no interference at the hands of this Court.

7. At the outset, it appears that the petitioner, in support of her claim, has produced nine documents on record; also, the Vigilance Cell has discovered another six documents. In all those documents, it has been recorded that the petitioner's ancestors belong to 'Mana'. Notably, the documents of 1921-22, 1948-49, 1953 and 1959 pertain to the petitioner's father, grandfather, and uncle. Neither the Vigilance Cell nor the Committee has disputed said documents. Therefore, there is no reason to disbelieve since the documents of 1921-22 and 1948-49 being pre-constitutional documents have higher probative value. In such an eventuality, as per the mandate laid down by the Hon'ble Apex Court in the case of *Maharashtra Adiwasi Thakur Jamat* (supra), "the pre-constitutional documents have a higher probative value. Likewise, the affinity test cannot be termed as a litmus test while deciding caste claim."

Therefore, the question of refusing Validity based on the finding that the sale transaction does not reflect the endorsement in view of Sections 36 and 36A of the MLR Code, to the effect that the landholder is a Scheduled Tribe category, is not sustainable in the eyes of the law.

8. In addition to the above, the Committee has also ignored the four validity certificates issued in favour of the blood relatives of the petitioner, which included two real brothers of the petitioner. The committee has discarded the validity certificates of her cousin, brother, and sister on the grounds that the same were issued without conducting the vigilance enquiry and without going into the affinity test. However, the said finding appears contrary to the mandate laid down in *Maharashtra Adiwasi Thakur Jamat* and *Apoorva Nichle* (supra). In fact, it is evident that in light of the law laid down in *Apoorva Nichle*, the Committee ought not to have refused the validity, but the Committee is required to issue validity in her favour unless it finds that the validity certificates of said relatives have been obtained by fraud or were issued without jurisdiction.

9. To sum up the above discussion, it is evident that the petitioner, to substantiate her claim, has produced pre-constitutional era documents and validity certificates issued in favour of her real brothers, cousin brother and sister. Thus, the case is covered by the law laid down in *Maharashtra Adiwasi Thakur Jamat* and *Apoorva Nichle* (supra); therefore, in our view, based on those documents and the law laid down in the above decisions, the petitioner is entitled to Validity Certificate, and the findings recorded by the Committee is not sustainable in the eyes of the law and requires to be quashed and set aside.

In the wake of the above discussion, the writ petition is allowed. The impugned order dated 07.03.2014, passed by respondent No.1 Scheduled Tribe Caste Certificate Scrutiny Committee, Gadchiroli, is hereby quashed and set aside. It is declared that the petitioner belongs to the '*Mana*' Scheduled Tribe. The Committee shall issue a Validity Certificate to the petitioner within four weeks from receipt of a copy of this judgment.

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

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)