

(2024) 11 BOM CK 0022
In the Bombay High Court
Case No : Writ Petition No. 2999 Of 2024

Ansh S/O Kiran Gharat

APPELLANT

Vs

Schedule Tribe Caste Certificate Scrutiny Committee, Thr. Its
Member Section. Nagpur

RESPONDENT

Date of Decision : 18-11-2024

Acts Referred:

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 — Section 8

Citation : (2024) 11 BOM CK 0022

Hon'ble Judges : Nitin W. Sambre, J; Abhay J. Mantri, J

Bench : Division Bench

Advocate : Rashi Nagrare, Ashwin Deshpande, N.S. Rao

Final Decision : Dismissed

Judgement

Abhay J. Mantri, J

(1) Rule. Rule is made returnable forthwith and heard finally by the consent of the learned counsel appearing for the parties.

(2) The challenge is raised to the order dated 26/09/2023 passed by respondent Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur (for short- 'the Committee'), whereby rejected the tribe claim of the petitioner that he belongs to "Mana" Scheduled Tribe.

(3) The petitioner claims that he belongs to the "Mana" Scheduled Tribe category; accordingly, on 24/05/2018, Sub-Divisional Officer, Katol issued a caste certificate in his favour. He was pursuing education, viz., a bachelor of engineering degree in the "Open" category. For the purpose of further education, through the Principal of the Arya Gurukul International Junior College, he forwarded his caste certificate along with relevant documents to the respondent Committee for its verification.

(4) The Committee was dissatisfied with the documents produced by the petitioner and therefore, forwarded the same to the Vigilance Cell for a detailed enquiry. Accordingly, the Vigilance Cell has conducted a thorough enquiry and submitted its report to the Committee, observing that adverse entries were found against the petitioner's claim in pre-Constitutional era documents. Based on the report, the Committee issued a show-cause notice to the petitioner to explain the said adverse entries. Pursuant to the same, the petitioner submitted his explanation to the respondent Committee. The Committee, after considering the documents produced by the petitioner, Vigilance Cell report and explanation submitted by him, rejected his tribe claim, hence this petition.

(5) Mr. Deshpande, learned Counsel for the petitioner, vehemently contended that the petitioner, to substantiate his claim, has produced sixteen documents on record and twelve validity certificates, which denote that the petitioner and his ancestors belong to the "Mana" Scheduled Tribe; however, the Committee has not considered the same in its proper perspective, but has discarded those documents observing that the validity holders have not submitted any affidavit of blood relations with the applicant.

(6) He further canvassed that in view of the law laid down in the case of Apoorva d/o Vinay Nichale vs. Divisional Caste Certificate Scrutiny Committee and others reported in 2010(6) Mh.L.J. 401, and based on twelve validity certificates including the validity certificate issued in favour of his father, the Committee ought to have issued a validity certificate in favour of the petitioner. He further contended that the Vigilance Cell is not empowered to recall and cancel the validity certificates granted in favour of the blood relatives of the petitioner in the absence of the finding that they had played fraud while obtaining the same.

(7) Apart from above, learned Counsel Mr. Ashwin Deshpande relying upon the decision of the Hon'ble Supreme Court in the case of Priya Pramod Gajbe vs. The State of Maharashtra and others reported in (2023) 9 S. C. R. 1261 submitted that in view of the observations in the said decision "Mani" entry has to be read as "Mana", as the same has been recorded by mistakenly.

(8) Lastly, he propounded that while filing the explanation, the petitioner categorically denied the observations made in the Vigilance Cell report, as well as the petitioner resisted and controverted the observations that he had interpolated the old entries as "Mana". Therefore, he urged for allowing the petition.

(9) As against Mr. Rao, learned Assistant Government Pleader strenuously argued that during the Vigilance Cell enquiry, eight pre-Constitutional era documents were discovered from 1912 to 1944, wherein the caste of his ancestors was recorded as "Mani/Mane/Malgujar", those documents have more probative value than the subsequent documents. The petitioner failed to demonstrate that he belongs to the "Mana" Scheduled Tribe. He further contended that during the enquiry, the Vigilance Cell noticed that the petitioner had interpolated the

documents of 1912-13 and 1913-14 and manipulated/tampered with the entry of caste "Mana" instead of "Mani". On that ground alone, the petitioner cannot grant a validity certificate in his favour. He further submitted that the petitioner had fabricated the documents, such as school records submitted by him in relation to the Hanumant and Keshav 1941 and 1944, shown as "Mana" instead of "Mani". Therefore, the petitioner is not entitled to get the validity certificate. Hence, he urged for the rejection of the petition.

(10) We have appreciated the rival contentions of the parties and gone through the impugned order, record, and decisions relied upon by the parties.

(11) At the outset, it is evident that the petitioner, in support of his claim, has submitted sixteen documents; out of them, eight documents on which the petitioner relies are between 1912-13 to 1944 wherein their cast has been recorded as Mani/Mane/Malgujar. The documents of 1912-13 and 1913-14, Bandobast (Misal) Khasara P-I (Land record) pertain to his great-great-grandfather Krushnaji s/o Pilaji and Sahebrao s/o Gadiji. According to him, in the said document, his ancestor's caste has been recorded as "Mana". As per the Vigilance Cell report and the committee's opinion, the said document was prepared by scoring out/tampering with the original word "Mani" and manipulated as "Mana". Therefore, the committee has discarded the said document.

(12) It further reveals that in the enquiry report, the Vigilance Cell has discovered five documents from 1913-14 to 1944 pertain to the petitioner's ancestors, wherein their caste had been recorded as "Mani/Mane"; those are the oldest entries. The petitioner has neither disputed his relationship with his ancestors nor denied the entries mentioned therein. He only contended that "Mani and Mane" had been wrongly written instead of "Mana"; therefore, the Committee had discarded the said entries.

(13) It further reveals that the Committee had issued a show-cause notice calling upon him to explain the adverse entries in the documents from 1913-14 to 1941. By filing a reply, the petitioner has stated that he dissented with the entries mentioned as "Mani/Mane" in the said documents, but it has been wrongly written as "Mana" instead of Mani/Mane. In respect of the entry of 1913-14, the petitioner, in explanation, stated that he disagreed with the same and that there was no tampering in the said entry, but the Vigilance Cell incorrectly noted the same. Therefore, he denied the said entry. However, he did not explain the averment of the interpolation/scoring in the document. Besides, he neither disputed his relationship with Manubai, Motiram and Hanawantrao, whose castes were recorded as "Mani/Mane", nor explained the said entries. Suppose the disputed entry of 1913-14 is ignored in such an eventuality; the petitioner has to explain the adverse entries pertaining to his ancestors in the documents from 1918 to 1944, but he failed to explain the same.

(14) The Committee, while considering the documents of 1912-13 and 1913-14,

in para 5(b), has assigned the reasons for discarding the said documents. It is categorically observed that the "Mana" entry was manipulated by scoring/ tampering with the original word "Mani". The petitioner failed to explain the discovery of the said document by the Vigilance Cell.

(15) The copy of the extract of the School Admission Register pertains to Motiram Lalji (cousin-cousin grandfather) dated 26/02/1918 and Manubai Shyamrao (cousin-grandfather) dated 25/12/1927, wherein their castes have been recorded as "Mane and Mani" respectively. The birth record of Hanwantrao s/o Shyamrao and Keshavrao s/o Shyamrao of 1934 and 1937, wherein their caste had been recorded as "Malgujar". The extracts of the School Admission Register of Hanwantrao s/o Shyamrao, cousin-grandfather, dated 20/04/1941, and Keshav S/o Shyamrao dated 28/03/1944 wherein their caste had been recorded as "Mane". It is pertinent to note that the petitioner in the genealogy has stated the names of the persons mentioned above as his ancestors. He has neither disputed his relationship with them nor disputed those entries. However, the petitioner relies only on the documents from the years 1913-14 to substantiate his claim, which was found to be manipulated by the petitioner during the Vigilance Cell enquiry. Therefore, the Committee discarded the same. Six documents from 1918 to 1944 pertain to the ancestors of the petitioner, wherein their castes had been recorded as "Mane/Mani/ Malgujar"; those entries are not helpful for the petitioner in support of his claim. The petitioner failed to explain those adverse entries; he just disagreed with the said entries. Thus, as per the mandate laid down by the Hon'ble Apex Court in various decisions, the oldest documents have greater probative value than the subsequent document; hence, the subsequent Seven documents from the year 1944 to 2008 produced by the petitioner do not help to substantiate his claim that he belongs to "Mana" caste.

(16) The petitioner has emphasised on twelve validity certificates granted in favour of his blood relatives. However, the Committee has discarded them, and therefore, he submitted that the findings given by the Committee are contrary to the dictum laid down in the case of Apoorva Nichley (cited supra). As per the mandate in the said case, the Committee ought to have granted a validity certificate in favour of the petitioner unless the committee finds that the validity Certificates have been obtained by fraud while obtaining the validity certificates.

(17) Per contra, the learned Assistant Government Pleader vehemently contended that the validity holders had not submitted the affidavit of the so-called blood relation with the petitioner or had not produced the authentic and genuine documents before the Committee and suppressed the same from the Committee. So also, the petitioner's relatives obtained the validity certificates by submitting fabricated and bogus documents of the years 1913-14 before the Committee. Therefore, those validity certificates are not helpful to the petitioner in substantiating his claim.

(18) Perused the impugned order, wherein the Committee observed that "while

obtaining the validity certificates, the petitioner's ancestors had submitted 'fabricated and bogus documents showing their caste as "Mana" and misled the then Committee' and obtained the said validity certificates. Also remarked that "the petitioner's ancestors had suppressed caste entries as 'Mani and Mane, of their blood relatives from 1913 to 1944 now same are discovered by the Vigilance cell in the case at hand." Similarly, in the said cases, the then Committee has passed a cryptic and unreasoned order about the old documents. Besides, it is held that validity holder Nitin was not in relation to the petitioner, and therefore, his validity certificate granted in his favour is hardly of any use in support of his claim.

(19) Having considered the above discussion, it emerges that during the Vigilance Cell enquiry, the Vigilance Cell has discovered six pre-constitutional era documents, i.e. from 1918 to 1944, wherein the caste of ancestors of the petitioner had been recorded as "Mani/Mane/Malgujar". In the documents of 1912-13 and 1913-14 on which the petitioner is relying, the Vigilance Cell found that the petitioner produced the said entry by tampering/blue-pencil the same as "Mana" instead of "Mani", therefore, discarded the same. No satisfactory explanation was offered by the petitioner while replying to the show-cause notice; therefore, the Committee has discarded the said document. It is pertinent to note that the Vigilance Cell depicts that the petitioner has relied on the tampered document and submitted the same to substantiate his claim, and therefore, in our view, the petitioner is not entitled to claim the benefit as he belongs to "Mana" caste based on the tampered/blue pencilled documents. Likewise, the entries of the documents from 1912 to 1941 are adverse to the petitioner's claim.

(20) Similarly, in the case of Maroti Vyankati Gaikwad and others vs. Deputy Director & Member-Secretary, The Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati and others [Writ Petition No.12/2022 decided on 17/04/2023] Full Bench of this Court after considering various judgments of the Apex Court, as well as this Court has categorically held that the Scheduled Tribe "Mana" in entry No. 18, has to be read-only and only "Mana" and not as an umbrella or community and therefore tribes with similar/synonymous names or names with prefix/suffix to "Mana" cannot claim any social status of a Scheduled Tribe. Para 17.7 of the said judgment reads thus as under:-

17.7. It would thus be clear that any claim by any tribe, sub-tribe or parts of such tribe or sub-tribe, whether having any similarity, prefix/suffix, or synonymity, with the name of the tribe as mentioned in the Presidential (ST) Order 1950, of being included in such Scheduled Tribe, would not be permissible. No enquiry in respect of such a claim is permissible. No enquiry of any nature whatsoever is permissible with reference to any material, whatever it may be and in whatever form, to interpret or construe the entries in the Presidential (ST) Order 1950, which have to be read as it is. The Scheduled Tribe 'Mana', in Entry 18, has to be read as only and only 'Mana', and not as an umbrella or community

and therefore, tribes with similar/synonymous names or names with prefix/suffix to 'Mana' cannot claim any social status of a Scheduled Tribe. Thus, persons belonging to tribes or sub-tribes such as 'Badwaik Mana', 'Khand Mana', 'Kshatriya Mana', 'Kshatriya Badwaik Mana', 'Kunbi Mana', 'Maratha Mana', 'Gond Mana', 'Mani'/'Mane', 'Mane Ku', 'Mana Ku', 'Ku Mana', 'Mana Kunbi', 'Patil Mana', etc. cannot be held to be included in the Scheduled Tribe 'Mana', in entry 18 in the Presidential (ST) Order 1950 and thus cannot claim the status of a Scheduled Tribe.

(21) Bare perusal of the above mandate, it appears that this Court has categorically held that the persons belonging to tribes or sub-tribes such as 'Badwaik Mana', 'Khand Mana', 'Kshatriya Mana', 'Kshatriya Badwaik Mana', 'Kunbi Mana', 'Maratha Mana', 'Gond Mana', 'Mani'/'Mane', 'Mane Ku', 'Mana Ku', 'Ku Mana', 'Mana Kunbi', 'Patil Mana', etc. cannot be held to be included in the Scheduled Tribe "Mana", in entry 18 in the Presidential (ST) Order 1950. Thus, one cannot claim the status of a Scheduled Tribe.

(22) The petitioner has relied on para 10 of the judgment of the Apex Court in the case of Priya Gajbe (supra), 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."

(23) A perusal of the said para reveals that the Apex Court, while dealing with the issue of terminology as "Mani" or "Mana", Scheduled Tribe had observed that no caste named "Mani" is in existence and; therefore, the possibility that there could be some mistake in writing when the caste was written. However, in the case at hand, the petitioner has neither disputed nor denied the said entries but averred that the same are included in entry 18 of the Presidential (ST) Order 1950. Thus, it is apparent that the facts in the cited case and the case at hand are distinct.

(24) In such an eventuality, the dictum laid down in the case of Maroti (supra) is applicable in the case at hand instead of observations made on facts in the case of Priya Gajbe (supra). That being so, the observations made in the case of Priya Gajbe are hardly of any assistance to the petitioner in support of his claim.

(25) Apart from the above, documents from 1913-14 to 1944 pertain to the petitioner's ancestors, whose caste had been recorded as "Mani/Mane"; those are the oldest entries, which he is not disputing the same. Therefore, in view of the law laid down by the Apex Court, in the catena of judgments, the oldest entry has more probative value than the subsequent document. In such circumstances,

in our opinion, the petitioner has failed to discharge the burden cast upon him 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 (Act of 2000). It is further revealed that the petitioner has blue-pencilled/manipulated/tampered with the documents, such as Bandobast (Misal) Khasra P-I in relation to the Krushnaji and Sahebrao of 1912-13 and 1913-14, shown as "Mana" instead of "Mani". Therefore, the petitioner is not entitled to claim the validity certificate.

(26) In the aforesaid background, the twelve validity certificates produced by the petitioner are not helpful to the petitioner as the validity holders have not submitted the affidavit of the so-called blood relation with the petitioner, nor have they produced the authenticated and genuine documents before the Committee. On the contrary, it reveals that the petitioner's relatives had suppressed the entries in records from 1918 to 1944 from the Committee. So also, the relatives of the petitioner obtained the validity certificates by submitting tampered and manipulated documents of 1912-13 and 1913-14 before the Committee; therefore, those validity certificates are not helpful to the petitioner to substantiate his claim. Consequently, we do not find any illegality in the said findings.

(27) Based on the above discussion, in our view, those validity certificates have to be reviewed by the Committee afresh. That being so, the documents produced by the petitioner, as well as collected by the Vigilance Cell, relate to the pre-independent era and have more probative value than the subsequent document. Same can be safely relied on to refuse the tribe's claim of the petitioner. The subsequent documents produced by the petitioner are not helpful to substantiate his claim.

(28) As such, from the available documentary evidence, it cannot be said that the petitioner has discharged the burden as contemplated under Section 8 of the Act of 2000, thereby proving that he belongs to the "Mana" Scheduled Tribe. Moreover, the documents of 1912-13 and 1913-14 pertaining to his great-great-grandfather Krushnaji s/o Pilaji and Sahebrao s/o Gadiji produced by the petitioner have more probative value. As such, there is no reason to disbelieve the said documents or entries, more particularly the caste recorded in those documents, which are related to the petitioner's great-great-grandfather. Furthermore, the observations made in the case of Priya Gajbe (supra) are hardly of any assistance to the petitioner in support of his claim. As against, the law laid down by the Full Bench of this Court in the case of Maroti (supra) is squarely applicable to the case at hand.

(29) In this background, in our view, the petitioner cannot be said to belong to the "Mana" Scheduled Tribe. Rather, the Committee, in our opinion, is justified in recording the finding that the petitioner has failed to demonstrate that he belongs to the "Mana" Scheduled Tribe.

(30) For all the reasons mentioned above, we are of the view that no case for causing interference in extraordinary jurisdiction is made out. Instead, we find substance in the submissions of learned Assistant Government Pleader in that regard.

(31) As such, there is no substance in the petition, and the petition is bereft of any merit and the same is dismissed. No order as to costs.