IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 607 OF 2020

1. Mohini D/o Hiraman Gharat
Aged 27 yrs. Occ. Housewife

2. Sachin S/o Hiraman Gharat
Aged 25 yrs, Occ. Education,

Both R/o Waregaon,
Tah. Kamptee, Distt. Nagpur.

...PETITIONERS

VERSUS

The Vice-Chairman/Member-Secretary,
Scheduled Tribe Caste Certificate Scrutiny Committee,
Adiwasi Vikas Bhavan, Giripeth,
Nagpur.

...RESPONDENT

WITH

WRIT PETITION NO. 4448 OF 2021

1. Ruprao S/o Ramaji Gharat
Aged about 55 yrs, Occ. Service,
R/o Plot No. 45, Sai Layout, Near Nitnaware Lawn, Jaitala Road,
Nagpur.

2. Keshao S/o Pundlik Gharat
Aged about 52 yrs, Occ. Service,
R/o Waregaon, Post - Bina,
Tah. Kamptee, Distt. Nagpur.

3. Omkar S/o Narayan Gharat
Aged about 49 yrs, Occ. Service,
R/o Waregaon, Post - Bina,
Tah. Kamptee, Distt. Nagpur.

...PETITIONERS

VERSUS

1. Joint Commissioner & Vice-Chairman,
Scheduled Tribe Caste Certificate Scrutiny Committee, Adiwasi Vikas Bhavan, Giripeth, Nagpur.

2. Executive Engineer,
Maharashtra State Electricity Distribution Company Ltd.
(MSEDCL), Katol, Distt. Nagpur.

3. Executive Engineer,
Maharashtra State Electricity Distribution Company Ltd.
(MSEDCL), Division No. 2, Nagpur.

4. Executive Engineer,
O&M Circle,
Maharashtra State Electricity Distribution Company Ltd.
(MSEDCL), Bhandara.

...RESPONDENTS

WITH

WRIT PETITION NO. 6637 OF 2022

1. Hiraman S/o Shamrao Gharat
Aged about 57 yrs, Occ- Service,
R/o Waregaon, Post – Bina,
Tah. Kamptee, Distt. Nagpur.

...PETITIONER

VERSUS

1. The Vice-Chairman/Member
Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee,
Adiwasi Vikas Bhavan, Giripeth,
Nagpur.

2. The Divisional Controller,
Maharashtra State Road Transport
Corporation, Nagpur Division,
Railway Station Road, Sitaburdi,
Nagpur.

...RESPONDENTS

WITH

WRIT PETITION NO. 6639 OF 2022

Madhukar S/o Shyamrao Gharat
Aged about 56 yrs, Occ-Service,
R/o Waregaon, Post - Bina,
Tah. Kamptee, Distt. Nagpur.

...PETITIONER

VERSUS

1. The Vice-Chairman/Member
Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee,
Adiwasi Vikas Bhavan, Giripeth,
Nagpur.

2. The Superintending Engineer,
Maharashtra State Electricity
Distribution Company Ltd.
(MSEDCL), O&M Department,
Deepshri, 3rd Floor, Kalmachari
Vasahat, Navghar, Wasai Road
(East)-401210. Dist Palghar.

3. The Executive Engineer,
Maharashtra State Electricity

Distribution Company Ltd.
(MSEDCL), O&M Department,
Wasai, Distt. Palghar-401210.

...RESPONDENTS

WITH

WRIT PETITION NO. 7357 OF 2022

1. Ku. Kanchan D/o Krishna Gharat(MINOR)
Aged about 17 yrs, Occ. Student,
through her natural guardian
father Shri Krishna S/o Shyamrao
Gharat
R/o Waregaon, Post - Bina, Tah.
Kamptee, Distt. Nagpur.

...PETITIONER

VERSUS

The Vice-Chairman/Member
Secretary,
Scheduled Tribe Caste Certificate
Scrutiny Committee, Nagpur

...RESPONDENT

Shri S.R. Narnaware and Ms Preeti Rane, Advocate for petitioners in respective writ petitions
Shri N.R. Patil, AGP for respondent/State
Shri R.S. Charpe, Advocate for respondent No.2 in WP 6637/2022
Shri A.D. Mohgaonkar, Advocate for respondent Nos. 2 and 3 in WP 6939/2022
Shri D.M. Kale and Shri S.R. Puddatwar, Advocate for respondent Nos. 2 and 3 in WP 4448/2021

CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 20.04.2026
PRONOUNCED ON : 05.05.2026

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

Heard.

2. **Rule**. Rule is made returnable forthwith in all petitions. Heard finally with the consent of parties.

3. All these writ petitions are decided by a common judgment, since the petitioners therein belong to one and the same family and have claimed to be of ‘Mana’ Scheduled Tribe. Since the reasons for rejecting their validation are also identical, all these can be disposed of by common judgment.

4. Writ Petition No. 607/2020 is taken up as a lead petition. The petitioners herein calming to be of ‘Mana’ Scheduled Tribe, forwarded the necessary documents along with their caste claims on 09.02.2010 and 24.06.2015 to the validity committee. Thereafter, the police vigilance report came to be served on the petitioners, to which they replied. However, the caste claims of the petitioners were invalidated by the Scrutiny Committee vide order dated 17.01.2019.

5. As far as petition No. 4481/2021 is concerned, the same claim was made by the family members of belonging to ‘Mana’ Schedule Tribe, wherein the petitioners were appointed on various

posts against the vacancies reserved for Scheduled Tribe and therefore were required to submit a caste validity certificate. Accordingly, the cast claims for validity certificates were submitted to the Scrutiny Committee. In this matter also vigilance cell enquiry was conducted and since some adverse entries were found, notice was issued to them. The petitioners in this petition also gave explanation to the vigilance cell. However, the claim of the petitioners was rejected by the Scrutiny Committee vide order dated 13.07.2021.

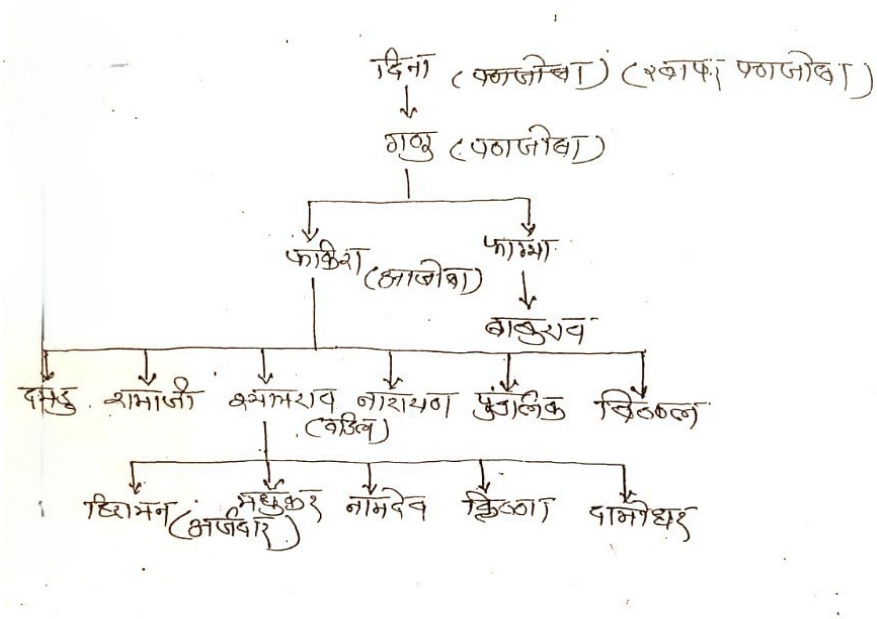
6. As far as petitioners in Writ Petition Nos. 6637/2022, 6639/2022 and 7357/2022 is concerned, there is a common order of the Validity Committee rejecting their caste claim.

7. We have heard Ms Preeti Rane and Shri S.R. Narnaware, learned Counsel for the petitioners, Shri N.R. Patil, learned Assistant Government Pleader for respondent/State, Shri A.D. Mohgaonkar, Shri D.M. Kale and Shri S.R. Puddatwar, learned Counsel for respondent Nos. 2 and 3 and Shri R.S. Charpe, learned Counsel for the respondent No.2 in WP No. 6637/2022.

8. Learned Counsel for the petitioners submit that the reasoning of the Scrutiny Committee, as has been reflected in the impugned orders invalidating their respective caste claims are per se illegal and without taking into consideration the binding precedents of this Court and the Hon'ble Apex Court in that regard. The learned Counsels further submit that the rejection of claim on the basis of documentary evidence, affinity test and area restrictions, is totally *de hors* the provisions of law. It is their submission that the oldest documents with respect to all the petitioners dates back to the year 1911-12 and 1916 were not taken into consideration.

9. Per contra, the learned Assistant Government Pleader, by pointing out reply filed by the Scrutiny Committee, as also the impugned order of the said Committee states that there were contra entries found in the vigilance cell enquiry and therefore the Scrutiny Committee was right in rejecting the claim of the petitioners. She takes us through the contra entries showing the caste as 'Mana Kunbi' and therefore she supports the impugned order.

10. Rival contentions fall for our consideration. Before proceeding further it would be advantageous to reproduce the family tree :



11. As has been rightly pointed out by the learned Counsel for the petitioners that the oldest document with respect to all the petitioners is a birth extract showing that Fakira Mana got a male child. The said birth extract is of the year 1916. The next oldest entry is S-31 document of one Ganu S/o Dina Mana. This document is of the year 1911-1912. Furthermore, there are other documents also showing the caste 'Mana'. Likewise the vigilance cell has found some adverse entries relating to the same persons, i.e., Ganu S/o Dina showing that the caste is 'Mana Kunbi' however

in the same vigilance report caste of the same person, i.e., Ganu S/o Dina Mana in document S-31 is shown as 'Mana'. Therefore, the fact remains that the caste of one Ganu Dina Mana, who happens to be the great grandfather of the petitioners herein, shows caste as 'Mana'. The reason for discarding the said document as is reflected in the various orders of the Scrutiny Committee is that even though the caste in the oldest document is shown as 'Mana' it cannot be firmly stated that the caste is 'Mana Scheduled Tribe'. This reason, in our considered opinion, is fallacious since as has been held by this Court time and again that there is no need for the caste being entered as 'Mana Scheduled Tribe'.

12. Another reason which has weighed with the Committee in rejecting or discarding the oldest document is that the document of 1916 which is the birth extract of the great grandfather, i.e., Fakira Mana, showing a one male child born to him is not available. This reason in our view also is fallacious inasmuch as there was a document on record filed by the applicant and therefore there was no reason to doubt the veracity. Furthermore, only because the record is not available in the office of the Collector cannot be a reason to non-suit the petitioner in view of the fact that even

otherwise there was ample documentary evidence on record to support the caste claim. In fact, the Scrutiny Committee in its order in the lead writ petition has observed that in the document of S-31 i.e. revenue extract of great great grandfather i.e. Ganu S/o Dina Mana, the caste is shown as 'Mana'.

13. Further reason stated by the Committee is that the document of the year 1916 could not be seen to be issued by the office of Collector as the pages of the said register are either torn or in a shabby condition. This reason also in our considered opinion is erogenous since as per the provisions of Section 92 of the Bharatiya Sakshya Adhiniyam, 2023, document/s which is more than 30 years old carry presumption about its genuineness.

14. In identical sets of facts a Co-ordinate Bench of this Court in Writ Petition No. 3044/2022, has observed that in all the adverse entries as collected by the vigilance and relied by the Scrutiny Committee, there is a reference to the word 'Mana' but what is not mentioned in the documents is 'Mana', is the Mana Scheduled Tribe or only Mana entry. The other entry Kunbi or other similar words viz कुन, कु, मा. कु. etc. found in the said entries are claimed to be

adverse to the interest of the petitioner. Even if it can be considered as that of other caste Kunbi which comes in Other Backward Caste, it is noteworthy to mention that there is no sub-caste as Kunbi in the cluster entry of Mana so as to infer that the petitioner belongs to Mana Scheduled Tribe. Thus, even if the documents are considered the other way round so as to found that whether there is any sub-caste Kunbi of caste Mana, it is informed that there is no such entry in any of the Scheduled Castes, Scheduled Tribes, Other Backward Classes, Special Backward Classes orders or notification.

15. As such, the claim of the petitioner that in documents in relation to great-great grandfather, great grandfather, grandfather, has to be read as Mana and not Mana Kunbi, needs to be accepted, as the word 'Kunbi' perhaps might have been wrongly inserted or incorrectly written.

16. We are also fortified in our view by the judgment of the Hon'ble Apex Court in the matter of *Priya Pramod Gajbe vs. State of Maharashtra and others, reported in 2023 SCC OnLine SC 909,* and para 10 would be relevant which is reproduced as under :

> *"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 'Man'. 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, and learned counsel for the parties also agree, 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."*

17. Further reason for rejecting the validity certificate is the applicability of the affinity test and rejection based on it. In a celebrated judgment of the ***Maharashtra Adiwasi Thakur Jamat Sanrakshan Samiti vs. State of Maharashtra and others, reported in 2023 (2) Mh.L.J. 785,*** it is held that if the documents of the pre constitutional period showing the caste of the applicant and their ancestrals are produced and in case the documents are authentic and genuine, the said documents showing that such candidate belonging to a particular tribal community cannot be discarded, as during pre independence era no reservation was provided to the Scheduled Castes, Scheduled Tribes category. If the factual aspect in the present matter is considered on the touchstone of the above dictum, we find that there were oldest documents relating to 1911, 1916 onwards. The reasons for discarding the said documents apart

from they being unsustainable in law cannot be said to be in consonance with various judgments of this Court. It is a settled principle of law that the pre constitutional documents carry a greater probative value and therefore in our view the orders of the Scrutiny Committee cannot be said to be correct rendering them perverse. We therefore pass the following order :

ORDER

i) The writ petitions are allowed.

ii) The impugned order dated 17.01.2019, passed by the respondent Scrutiny Committee, Nagpur in case No. सआ/अजप्रतस/नाग/I/३९/३१/२०१० (Case ID : 6-ST/2010/12510), सआ/अजप्रतस/नाग/I/०८/३१/२०१५ (Case ID : 6-ST/2015/10012) In Writ Petition No. 607/2020, order dated 13.07.2021, passed by the respondent Scrutiny Committee, Nagpur in Writ Petition No. 4448/2021, order dated 22.08.2022, passed by the respondent Scrutiny Committee, Nagpur in case No. JC/TCSC/NGP/III/26/31/2020 and the appointment order dated 5.3.2021 issued by the respondent No.2 i.e. Divisional Controller, MSRTC, Nagpur Division, Nagpur in Writ Petition No. 6637/2022,

order dated 22.08.2022, passed by the respondent Scrutiny Committee, Nagpur in case No. JC/TCSC/NGP/III/19/31/2021 in Writ Petition No. 6639/2022 and JC/TCSC/NGP/I/337/31/2021 in Writ Petition No. 7357/2022, are set aside.

iii) It is hereby declared that the petitioners belong to 'Mana' Scheduled Tribe and the Scrutiny Committee is directed to issue them a validity certificates within four weeks from the date of this order.

18. All civil applications are disposed of.

19. Rule is made absolute in above terms. No orders as to cost.

(NANDESH S. DESHPANDE, J.) (SMT. M.S. JAWALKAR, J.)

Jayashree..