

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS  
CIVIL APPEAL NO(s). 8189 OF 2001

KUNDA VISHWANATH GHODMARE

Appellant (s)

VERSUS

COMMITTEE FOR S.&amp; V.OF TRIBES CLAIMS &amp; ORS

Respondent(s)

(With prayer for interim relief )

WITH Civil Appeal NO. 8190 of 2001

(With prayer for interim relief)

Civil Appeal NO. 8191 of 2001

(With appln.(s) for exemption from filing c/c of the impugned judgment and with prayer for interim relief)

Civil Appeal NO. 8192 of 2001

(With appln.(s) for exemption from filing c/c of the impugned judgment and with prayer for interim relief)

Civil Appeal NO. 8193 of 2001

(With prayer for interim relief)

Civil Appeal NO. 8194 of 2001

(With appln.(s) for exemption from filing c/c of the impugned judgment and with prayer for interim relief)

Civil Appeal NO. 8196 of 2001

(With prayer for interim relief)

Date: 16/01/2008 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE H.S. BEDI

For Appellant(s)

Mr. R. Sundravardhan, Sr.Adv.

Mr. Shivaji M. Jadhav, Adv.

Mr. Himanshu Gupta, Adv.

Mr. Brij Kishor Sah, Adv.

Mr. Rahul Joshi, Adv.

For Respondent(s)

Ms. Aparajita Singh, Adv.

Mr. S.S.Shinde, Adv.

Ms. Asha G. Nair, Adv.

Mr. V.N. Raghupathy, Adv.

RR Ex-Parte

UPON hearing counsel the Court made the following

ORDER

The appeals are allowed in terms of the signed order.

(Sukhbir Paul Kaur)

(Vijay Dhawan)

Court Master

Court Master

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8189 OF 2001

KUNDA VISHWANATH GHODMARE

Appellant(s)

Versus

COMMITTEE FOR SCRUTINY AND VERIFICATION Respondent(s)  
OF TRIBES CLAIMS AND ORS.

WITH Civil Appeal NO. 8190 of 2001

Civil Appeal NO. 8191 of 2001

Civil Appeal NO. 8192 of 2001

Civil Appeal NO. 8193 of 2001

Civil Appeal NO. 8194 of 2001

ORDER

All these seven appeals involve similar question of law. Therefore, they are disposed of by a common order. However, for the convenient disposal of these appeals the facts given in the case of Civil Appeal No.8189 of 2001 are taken into consideration.

This appeal by special leave is directed against the judgment and final order dated 18th August, 2000 passed by the learned Single Judge of the High Court of Judicature at Bombay, Nagpur Bench in Writ Petition No.1560 of 2000 whereby the learned Single Judge held that on the material placed on record it shows that the petitioner belongs to "Mana" community was not enough but it was imperative to place on record further evidence that

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"Mana" community to which he belongs has affinity with the "Gond" tribe. It is only then that the petitioner can be treated to belong to Scheduled Tribe as a sub-tribe of "Gond" and consequently, he affirmed the order dated 28th March, 2000 passed by the Caste Scrutiny Committee by Order dated 18th August, 2000.

The petitioner filed the Writ Petition in the Bombay High Court challenging the order dated 28th March, 2000 passed by the Committee for Scrutiny and Verification of Tribes Claims invalidating the caste claim set up by the petitioner that he belongs to Scheduled Tribes of "Mana" community which is the sub-tribe of "Gond". The learned Single Judge of the Bombay High Court after hearing both the parties affirmed the order of the aforesaid committee.

Aggrieved against this order the Special Leave Petition was filed before this Court in which leave was granted.

Learned counsel for the appellant submitted that in view of the subsequent decision of this Court "Mana" community is not a sub-tribe of "Gond" community. Learned counsel further submitted that "Mana" community is a Scheduled Tribe community by itself only and there is no question of any affinity with the "Gond"

community. In support of this, learned counsel for the appellant invited

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our attention to the decision of this Court in the case of State of Maharashtra & Ors. versus Mana Adim Jamat Mandal reported in 2006(4) SCC 98. In this case, this Court after considering the various Notifications issued by the Government of India from time to time under Article 342 of the Constitution of India had interpreted the entries mentioned therein and held that "the common pattern found in most of the group entries is that there is a punctuation mark comma (,) between one entry and another entry in the group signifying that each one of them is deemed to be a separate Scheduled Tribe by itself. In the present case, Entry 18 of the Schedule clearly signifies itself and not a sub-tribe of "Gond". "Gond" including Arakh or Arrakh, etc. found in Entry 12 of the Amendment Act 63 of 1956 has been done away with by the Amendment Act of 1976. In Entry 18 of the Second Schedule of the Amendment Act of 1976 the word "including" was deliberately omitted, which signifies that each one of the tribes specified in Entry 18 is deemed to be a separate tribe by itself. Therefore, "Mana" is not a sub-tribe of "Gond" but a separate tribe by itself and is a Scheduled Tribe." In view of the decision of this Court the issue no more remains res integra. Now "Mana" community shall be treated as tribe in its own right.

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The Scrutiny Committee as well as the learned Single Judge had proceeded that in order to establish that the petitioner belongs to "Mana" community, he has to show his affinity with the "Gond" tribe but in view of recent decision of this Court the order of learned Single Judge cannot be upheld. Consequently, now the matter has to be examined that whether the petitioner belongs to "Mana" community or not. Not that he has any affinity with the "Gond" community. Therefore, the Scrutiny Committee and the learned Single Judge of the High Court mis-directed on this issue.

Consequently, we set aside the order of the learned Single Judge dated 18th August, 2000 as well as the order passed by the

Committee for Scrutiny and Verification of Tribes Claims dated  
28th March, 2000 and remit this case alongwith the remaining six  
cases to the Committee for Scrutiny and Verification of Tribes  
Claims to scrutinise the matter on the basis of the material  
produced by the petitioner that whether they really belong to  
"Mana" community or not in the light of the decision given in the  
aforesaid case. Therefore, now the Committee will undertake this  
exercise and permit the petitioner to produce all evidence to show  
that he belongs to "Mana" community which is a tribe in its own  
right and not

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whether it has any affinity with the "Gond" community. Learned  
counsel has also pointed out that in Civil Appeal No.8189 of 2001,  
Civil Appeal No.8190 of 2001, Civil Appeal No. 8192 of 2001 and  
Civil Appeal No.8194 of 2001 all the incumbents are already in  
service. However, in Civil Appeal No.8193 of 2001, the service of  
the incumbent has been terminated and in Civil Appeal No.8191 of  
2001 the incumbent has already been compulsorily retired in the  
year 2002. In Civil Appeal No.8196 of 2001 also, the incumbent  
has been compulsorily retired. So far as the incumbents who are  
already in service, their services may not be terminated till the  
matter is decided by the Committee for Scrutiny and Verification of  
Tribes Claims. Let the Scrutiny Committee undertake this exercise  
and permit the incumbents to lead necessary evidence to show  
whether they belong to "Mana" community or not.

Learned counsel for the State of Maharashtra has  
submitted that there is "Mana" community also apart from the  
"Mana" tribe. This is a question of fact which has to be examined  
by the Scrutiny Committee on the basis of evidence. We do not wish  
to express any opinion on that part of the matter.

In the facts and circumstances of the case, we allow all  
these appeals and set aside the order of the

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High Court as well as the Committee for Scrutiny and Verification  
of Tribes Claims and remit all the cases to the Committee for

Scrutiny and Verification of Tribes Claims to examine after hearing both the parties. Both the parties will be at liberty to produce the necessary evidence before the Scrutiny Committee.

No order as to costs.

.....J.  
(A.K.MATHUR)

.....J.  
(H.S.BEDI)

New Delhi,  
January 16, 2008