

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

WRIT PETITION NO. 4198 OF 2000

- 1] Dr.Dayaram s/o Bhagwanji Narnawre,
aged about 50 years, Occ. Medical
Practitioner, R/o. Umred,
Distt. Nagpur.
- 2] Harshal S/o. Dayaram Narnawre,
aged about 17 years, through
father Dr. Dayaram Narnaware,
- 3] Ujwal s/o Dayaram Narnawre,
aged about 16 years, through
father Dr. Dayaram Narnawre

Petitioners 2 & 3 R/o Umred,
Distt. Nagpur

PETITIONERS

...VERSUS...

1. State of Maharashtra,
Through its Secretary,
Department of Tribal Development,
Mantralaya, Mumbai.
2. Sub Divisional Officer, Umred,
Distt. Nagpur.
3. The Maharashtra Health University,
through its Registrar,
Nashik,
4. The Director of Technical Education,
Maharashtra State, Central Building,
Pune,
5. The Scheduled Tribe Caste Scrutiny Committee,
Giriopeth, Opp. R.T.O. Nagpur

RESPONDENTS

Shri S.Sanyal , counsel for Petitioners.
Shri N.S.Rao, AGP for Respondent nos. 1, 2, 4 and 5

CORAM: R. K. DESHPANDE, AND
Mrs. SWAPNA JOSHI, JJ.
DATE : 14th JUNE, 2017 .

ORAL JUDGMENT (P.C.)

1] The challenge in this petition is to the Government Resolutions dated 24.04.1985 and 19.06.1985, holding that caste Mana shown in the Entry No. 18 of "Gond" in Constitution (Scheduled Tribe) Order in relation to the State of Maharashtra is sub-tribe of "Gond". The Sub Divisional Officer, Umred, passed an order on 03.07.2000 holding that the petitioner belonging to Mana tribe has failed to establish his affinity with "Gond".

2] The controversy involved in this petition no longer remains *res-integra* in view of the decision of the Apex Court in the case of ***State of Maharashtra and others vrs. Mana Adim Jamat Mandal***, reported in **2006 (4) SCC 98**. The Apex Court has held that earlier two judgments; one in the case of ***Dina vrs. Narayan Singh***, reported in **(1968) 38 ELR 212** and another in the case of ***Dadaji vrs. Sukhdeobabu***, reported in **(1980) 1 SCC 621** stand impliedly overruled by the decision of the Constitution Bench

of the Apex Court in the case of **State of Maharashtra vs. Milind**, reported in **2001 (1) SCC 4**. The Government Resolutions under challenge reiterated the position in the aforesaid two judgments which are overruled.

3] The Apex Court has now held in **State of Maharashtra vs. Mana Adim Jamat Mandal** that each of the tribes specified in Entry 18 must be deemed to be a separate tribe and not sub-tribe of “Gond”. In view of this position, the order passed by the Sub Divisional Officer holding that the petitioner belonging to Mana tribe has failed to establish his affinity with “Gond” cannot be sustained. The Scrutiny Committee has to examine the case of the petitioner for Mana – Scheduled Tribe category, which is not a sub-tribe of “Gond”.

4] In view of above, writ petition is allowed. The order dated 03.07.2000 passed by the Sub Divisional Officer, Umred, refusing to issue a caste certificate to the petitioner and his sons showing that they belong to Mana – Scheduled Tribe category is hereby quashed and set aside. The Sub Divisional Officer is directed to issue caste certificate to the petitioner and his sons showing that they belong to Mana – Scheduled Tribe Category.

However, these certificates shall obviously be subject to scrutiny and verification by the Scheduled Tribes Caste Scrutiny Committee. The certificate be issued within a period of one month from the date of receipt of the order.

Rule is made absolute in these terms. No order as to costs.

JUDGE

JUDGE

Rvjalit