

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13054 OF 2024

Renuka Tukaram Koli (Shetsandi) @
Sakshi Laxman Koli,
Age: 33 years, Occ: Education/Service,
Residing at Near Z.P. School, Dharsang,
Post Mundewadi, Taluka Akkalkot,
District: Solapur.

...Petitioner.

Versus

1. The State of Maharashtra
Through its Secretary Tribal
Development Department,
Mantralaya Mumbai-400 032.
2. The Sub Divisional Officer,
Solapur No.2, Taluka Solapur,
District: Solapur.
3. The Scheduled Tribe Certificate,
Scrutiny Committee, Pune
Through its Member Secretary.
4. Joint Director of Higher Education,
Pune Region, Pune.
5. The Commissioner,
State Cell Maharashtra, 8th Floor,
New Excelsior Building, CET Cell,
A. K. Naik Road, Fort.
Mumbai – 400 001.
6. D.G.B. Dayanand Law College,
Solapur, through Principal,
Solapur, Dist-Solapur.
7. The Sub-Divisional Magistrate,
Solapur No.2-, Solapur,
District : Solapur.

....Respondents.

Mr. Satish Raut, i/b. Mr. Vivek Salunkhe, for the Petitioner.
Mr. P. P. Kakade, Additional Government Pleader with Mr. Siddheshwar B. Kalel,
AGP, for the Respondents-State.
Mr. Nagesh Y. Chavan, for the Respondent No.5-CET Cell.

**Coram : Sharmila U. Deshmukh &
Neeraj P. Dhote, JJ.**

Reserved on : September 30, 2026.
Pronounced on : October 6, 2026.

JUDGMENT : (Per Neeraj P. Dhote, J.)

1. Heard finally by consent of both the sides at the admission stage.
2. Impugned in this writ petition is the order dated 20th September 2024 passed by the Respondent No.3-Scrutiny Committee invalidating the claim of the Petitioner towards the Koli Mahadev-Scheduled Tribe. The Petitioner is the student seeking admission to the three-year LLB Course in the Respondent No.6-College through the Central Admission Process implemented through the Respondent No.5-CET Cell. The petitioner is having the tribe certificate as belonging to the Koli Mahadev-Scheduled Tribe. The Petitioner submitted her tribe certificate for verification to the Respondent No.3-Scrutiny Committee alongwith the documents of her blood relatives from the paternal side in support of her claim. The Respondent No.3-Scrutiny Committee referred the Petitioner's claim to the Vigilance Cell. The Vigilance Cell conducted the enquiry and submitted its report. The Petitioner was served with the copy of the Vigilance Cell report and the notice by the Respondent

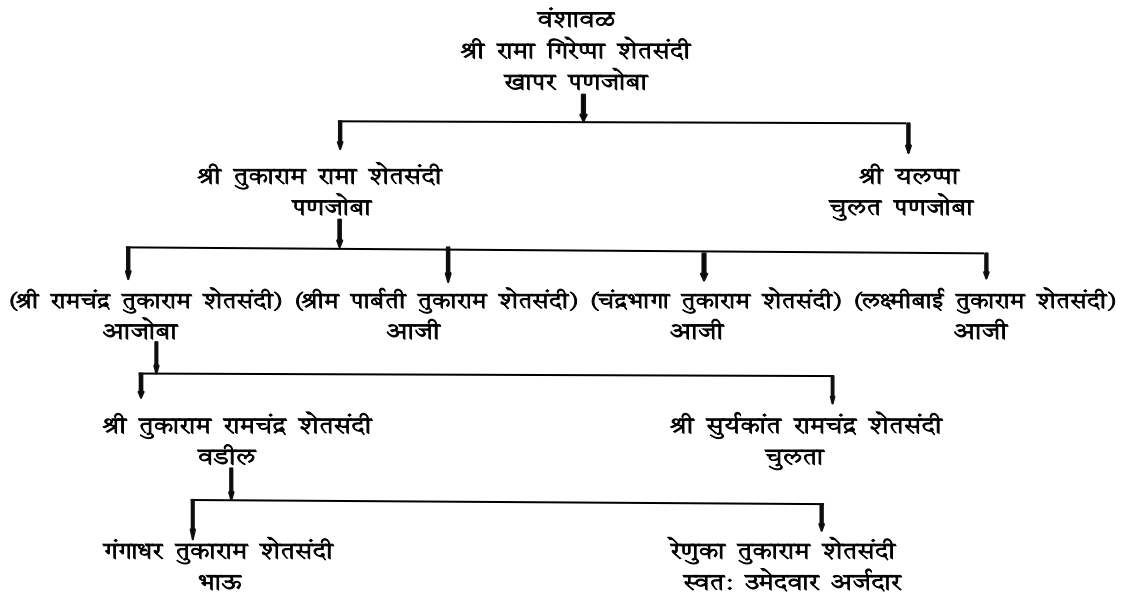
No.3-Scrutiny Committee. The Petitioner submitted her response to the same. After hearing the Petitioner and on consideration of the documents on record, the impugned order came to be passed.

3. It is submitted by learned counsel for the Petitioner that the Petitioner submitted the genealogy and the documents in support of her tribe claim. The documents submitted by the Petitioner includes the entries of a pre-Constitution period showing the caste of her father's aunt as Koli Mahadev. The Respondent No.3-Scrutiny Committee discarded the pre-Constitution period entry of Laxmibai, who was the aunt of her father, on the ground that the school, where Laxmibai had studied was established in 1911 and the entries in the school register were available from 29th August 1947 and the said entries were rewritten from the previous register. The Committee further invalidated the tribe claim on the ground that in the revenue record and school record of the blood relatives of the Petitioner between the period 1921 and 1948 shows the caste as 'Koli'. He submitted that without there being any expert's opinion, the observation of the Respondent No.3-Scrutiny Committee discarding the pre-Constitution period entry of Parvatibai, who was also the aunt of her father, on the ground that there was interpolation and the impugned order is unsustainable in the eyes of law. He relied on the decisions of this Court in the case of ***Kum.***

Ganesh s/o. Santosh Koli v. The State of Maharashtra & Ors.¹ and in the case of ***Harshad Mukund Parchande v. State of Maharashtra & Anr.***²

4. The learned AGP supported the impugned order. He submitted that the Respondent No.3-Scrutiny Committee accepted report submitted by the Vigilance Cell and the impugned order calls for no interference.

5. The following is the undisputed genealogy submitted by the petitioner before the Respondent No.3-Scrutiny Committee :



6. The Petitioner has based her tribe claim on the pre-Constitution era documents of Laxmibai, Chandrabhaga and Parbati, who are the aunts of her father. The said documents are referred in the chart in paragraph 3 of the impugned order. The document in respect of Laxmibai relied upon by the Petitioner is the school record of Zilla

1 Writ Petition No.3991 of 2026 Dtd. 20th August 2026.

2 Writ Petition No.4340 of 2026 Dtd. 4th September 2026.

Parishad Primary School, Sindhkhed, Taluka South Solapur, District Solapur. The date of entry in the said school is shown as 1st March 1949 and the caste is recorded as 'Hindu Mahadev Koli'. The Respondent No.3-Scrutiny Committee discarded the said entry on the ground that, the said school was established in the year 1911 and the entries in the school record were available from 29th August 1947 and the entries were rewritten in the register from the previous register and the previous register was not available. The Respondent No.3-Scrutiny Committee records that, the caste of Laxmibai in the said school record is shown as 'Hindu Mahadev Koli'. It is not the finding by the Respondent No.3-Scrutiny Committee that, the said school entry of Laxmibai was tampered or interpolated. The reason given by the Respondent No.3-Scrutiny Committee for discarding the said document is neither sufficient nor proper.

7. As regards Chandrabhaga is concerned, the document relied upon by the Petitioner is the school entry in the Zilla Parishad Primary School, Rajur, Taluka South Solapur, District Solapur. The date of entry in the school is shown as 11th September 1945 and the caste is recorded as 'Hindu Mahadev Koli'. The impugned order does not show that, the Respondent No.3-Scrutiny Committee dealt with the said entry of Chandrabhaga. These entries of Chandrabhaga and that of Laxmibai are of the pre-Constitution era, having more probative value.

8. As regards the entry in the school record of Parvatabai is concerned, the same is from the Zilla Parishad Primary Marathi School, Rajur, Taluka South Solapur, District Solapur, which shows the date of entry in the school as 5th July 1939 and the caste is shown as 'Mahadev Koli'. The Repondent No.3-Scrutiny Committee discarded the said entry with the reason that, as per the Vigilance Cell report, the caste 'Mahadev Koli' is mentioned in the column for the caste and the page containing the Column No.1 to 6 on the said Register was completely different and was subsequently introduced and was written in the different handwriting and different ink. However, it is nowhere the finding of the Respondent No.3-Scrutiny Committee that it was the sole entry of Parbatibai on the said page of the school register. If that is not the finding of the Scrutiny Committee, the reason given for discarding the said pre-Constitution era entry will not sustain.

9. The Respondent No.3-Scrutiny Committee in the impugned order further noted that, in the verification case of Ratnadeepa Shetsandi, who was the cousin sister of Parbatabai, the Vigilance Cell came across the caste entry of Parbatabai as 'Koli'. The impugned order further shows that, the Vigilance Cell came across the caste entries as Koli in the pre-Constitution era documents of the ancestors of the Petitioners, such as cousin sister of cousin grandfather, sister of grandfather, sister of cousin grandfather, cousin grandfather, etc.

10. In ***Kum Ganesh Santosh Koli (supra)***, the challenge was to the order of the Respondent No.3-Scrutiny Committee invalidating the claim of the Petitioner therein towards 'Koli Mahadev-Scheduled Tribe'. The Vigilance Cell inquiry conducted in the said case found the caste entry as 'Koli' in the record of the Petitioner's blood relatives. The decision in ***Prabhu s/o. Narayan Survase v. State of Maharashtra & Ors.***, 2004 (4) ALL MR 815, in respect of the 'Koli Mahadev-Scheduled Tribe' was considered in the said decision. The relevant paragraphs from the said Judgment of ***Prabhu s/o. Narayan Survase (supra)***, quoted therein, are reproduced below:

"8. Presidential notification, notifying the Constitution (Scheduled Tribes) Order, 1950, in so far as the State of Bombay is concerned, included amongst the Scheduled Tribes Koli Dhor and Koli Mahadev. At the relevant time, the five districts, now in Marathwada, were not a part of the Bombay State but were part of the State of Hyderabad. There was no inclusion of the tribe Koli Mahadeo among the Scheduled Tribes notified for the State of Hyderabad. Thereafter even under the amendment to the Constitution (Scheduled) Tribes Order, 1950, the position remained as under :

Mahadeo Koli was declared Scheduled Tribe in the Bombay Province as early as 1933. For the State of Bombay, under item 12 were included Koli Dhor, Tokre Koli, Kolcha or Kolgha. Then under item 3(a) in certain talukas in Ahmednagar, Kolaba, Nashik, Poona and Thana, Koli Mahadev or Dongar were also notified as Scheduled Tribes.

Then came the scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. Under this, in so far as the State of Maharashtra is concerned, under item No.28 were included Koli, Dhor, Tokre Koli, Kolcha or Kolgha and under item No.29, Koli Mahadeo, Dongar Koli, and at item no.30 were Koli Malhar, for the entire State.

In the erstwhile State of Hyderabad there was an enactment, known as Tribal Areas Regulation, 1359 Fasli under which the 'Tribe' was defined to mean Bhils, Chenchus, Gonds, Hill Reddies, Kolams Koyas, Naikpods, Pardans, Totis. Thus, in erstwhile State, there was no reference to either

Mahadeo Kolis or Kolis as Scheduled Tribe except as an agricultural community wherein it was referred to as Kolis. The Backward Classes Commission had however suggested inclusion of Koli as Scheduled Tribe in the State of Hyderabad. This was never given effect to by any specific Presidential order or Legislation.

The five districts, now eight, of Marathawada were earlier forming part of erstwhile State of Hyderabad. When then Backward Classes Commission submitted its report, one of its recommendations, for the State of Hyderabad, was to include Koli, as a Scheduled Tribe. In so far as State of Hyderabad is concerned, we have some material from the book "The Castes and Tribes of H.E.H. The Nizam's Dominions" by Syed Siraj Ul Hassan, published in the year 1920 (Bombay, The Tata Press).

In respect of Kolis, internal structure is described as under :

Mahadev Kolis derive their name from the god Mahadeo and they have 24 exogamous septs (sects), each of which is further divided into a number of surnames or sub-sections. The Kolis observe the simple rule of exogamy that a man may not marry outside the sub-tribe or inside the sept (sect) to which he belongs. In so far as religion is concerned, it is set out that their patron deity is Mahadeo, their household worship, in which priests take no part, is addressed to Bhairoba (Sonari, Ahmednagar), Devi of Tuljapur (Nizam's territory) and Khandoba of Jejuri (Pune). The dead are buried in a lying posture, with the face upwards and the head pointing to the north.

In the Encyclopedic Profile of Indian Tribes, by Sachchidananda and R. R. Prasad, in an article written by Navinchandra Jain and Robin D. Tribhuwan it is mentioned that the Mahadeo Kolis are one of the major tribes of western Maharashtra. It is predominantly found in five districts namely Nashik, Pune, Ahmednagar, Thane and Raigad.

The major deities of Mahadeo Kolis are goddess Bhavani, and gods Kaloba and Bhairoba, respectively. The Mahadeo Kolis bury their dead and head points towards the south. Irrespective of the changes which are taking place in their life style, the Mahadeo Kolis still hold superstitious beliefs about life, death, etc. The traditional village panchayat of the Mahadeo Kolis is known as "Gaon Baithak".

In the Census of India, 1941, Vol.XXI HEH Nizam's Dominion, published in 1945, there is Appendix I which is an essay by Christoph Von Furer Haimendorf Ph.D. on "Tribal Populations of Hyderabad Yesterday and Today", which states that Kolis in Hyderabad State are known and recognised as Scheduled Tribe and the "Kolis" in erstwhile Hyderabad State on reorganisation of State, will continue as Scheduled Tribe. This factually seems not to be correct.

11. *The conclusions that must follow from the discussion are as under :-*

(a) The Committee, considering the claim of a candidate, is the only fact finding Committee. Therefore, great care must be taken in absence of any appeal, to consider and appreciate all the evidence, documentary or by way of affidavit or oral which has been produced.

(b) As a fact finding Committee and, a quasi judicial authority, deciding the status of the party and from which order no appeal lies, it must record reasons for rejecting the evidence produced, documentary or oral. The need for recording reasons is because a High Court examining the order in the exercise of its extra ordinary jurisdiction under Article 226 would be in a position to know whether correct tests have been applied and whether the evidence placed before the Committee has been considered.

(c) Merely because an entry as, for instance, Koli, is recorded in the School records, by itself, cannot result in rejecting the claim of a candidate. This is more so in the five districts, now eight districts, of Marathwada, which were earlier forming part of the erstwhile State of Hyderabad and who admittedly are not in the profession of fishing as traditional occupation nor is Marathwada a coastal belt. The Committee, while considering the claims of Scheduled Tribe candidates, coming from this area, will have to consider the other material placed before it and not merely proceed on the footing that, because Koli is shown in the school certificates or, some other document, all other evidence must be rejected. The Committee must consider the documentary evidence, coupled with the Vigilance Report and other evidence of tribal traits and characteristics, to arrive at a conclusion that the petitioner belongs to the tribe, he/she claims to being. No doubt, the burden will be more on the candidate where such entry is recorded unlike in a case, no such documentary evidence is recorded. As has been held in the case of Rajesh s/o. Yadavrao Sankaple (supra), Kolis in Marathawada did not become Mahadeo Kolis by the Presidential Order of 1976. However, it would still be open to persons claiming to be belonging to Mahadeo Kolis to establish that they are not fisherman and establish by evidence their tribe characteristics as Mahadeo Kolis.

(d) In so far as documentary evidence is concerned, mere absence of the records of the parents of the candidate cannot be held against a claimant. The very fact that the tribe/caste is notified, as S.C./S.T. is based on the historical fact that the tribe/cast is backward. In these circumstances, the mere absence of documentary evidence cannot be held against a claimant. In those cases the report of the Vigilance Officer and of the Research Officer, about the tribal traits and characteristics and anthropological studies, must decide the issue based on the evidence produced.

(e) We have earlier observed that the orders are stereotyped. This needs correction at the hands of the Committee. In respect of the evidence pertaining to traits, characteristics, anthropological studies, there must be a specific proforma in respect of each tribe and, may be, even caste. A claimant should be asked questions in respect of his tribe claim and not pertaining generally to all tribes. It is possible that some traits will be common but, at the same time, there will be other traits which may be distinct to distinguish one tribe from the another. The proforma for verification of tribe claim, must include the specific traits of each tribe.

(f) In the absence of documentary evidence, the duty of the Committee will be to permit the candidate to lead evidence of tribal traits and characteristics, by answering the questionnaire prepared in respect of his tribe and also allow any evidence on affidavit to be led on which the candidate can be questioned. That material including in cases where there are documents should be made available to the Vigilance Officer who will verify the same by following the procedure laid down in judgment of the Apex Court referred to earlier to find out the authenticity or genuineness of the claim.

(g) The report of the Vigilance Officer along with any documents the Officer may collect must be given to the candidate, to enable him to give his say if the report is adverse, or if the Committee is of the prima facie opinion, that the report has to be rejected. The reply if any should be considered whilst passing order in the claim of the candidate."

11. The Respondent No.3-Scrutiny Committee has categorically recorded that the Petitioner and her ancestors were resident of Rajur, Taluka South Solapur, District Solapur prior to 6th September 1950. There is no finding by the Vigilance Cell and by the Respondent No.3-Scrutiny Committee that 'fishing' was the traditional occupation of the Petitioner's family. Under such facts and circumstances, the ratio in the said Judgment would be applicable in the case at hand. Therefore, the caste entries as 'Koli' in the records of the Petitioner's paternal blood relatives will not by itself sufficient to discard her claim towards 'Koli Mahadev', as there are three (3) entries of pre-Constitution era of the

paternal blood relatives of the Petitioner showing the caste as 'Koli Mahadev'.

12. The Respondent No.3-Scrutiny Committee appears to have misdirected itself in discarding the pre-Constitution era entries of Laxmibai and Chandrabhaga and gave unacceptable reasons in discarding the said entries. The other ground of affinity is unsustainable in view of the settled legal position that affinity test is not a litmus test to decide a caste claim and is not an essential part in the process of the determination of the correctness of a caste or tribe claim in every case.

13. In the light of the above discussion, the impugned order is unsustainable and liable to be quashed and set aside with directions to the Respondent No.3-Scrutiny Committee to issue validity certificate to the Petitioner as belonging to the 'Koli Mahadev-Scheduled Tribe'. Hence, the following order:

ORDER

- i) The impugned order dated 20th September 2024 passed by the Respondent No.3-Scrutiny Committee invalidating the Petitioner's tribe claim is quashed and set aside.
- ii) The Respondent No.3-Scrutiny Committee is directed to issue validity certificate to the Petitioner as belonging to the 'Koli Mahadev-Scheduled Tribe', within a period of two (2) days.
- iii) The Writ Petition stands disposed of.

[Neeraj P. Dhote, J.]

[Sharmila U. Deshmukh, J.]