

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4076 OF 1999

Gangaram Santukarao Gadge .. Petitioner

Versus

The State of Maharashtra and Others .. Respondents

Shri A. S. Golegaonkar, Advocate for the Petitioner

Smt M. A. Deshpande, A. G. P. for the Respondent Nos. 1, 3 and 4

Shri K. D. Bade Patil, Advocate for the Respondent No. 2

WITH

WRIT PETITION NO. 1792 OF 2000

WITH

CIVIL APPLICATION NO. 1768 OF 2007

CIVIL APPLICATION NO. 10985 OF 2010

Kum. Snehlata Gangaram Gadge

Through her father and Guardian

Gangaram Santukarao Gadge .. Petitioner

Versus

The State of Maharashtra and Others .. Respondents

Shri A. S. Golegaonkar, Advocate for the Petitioner

Smt M. A. Deshpande, A. G. P. for the Respondent Nos. 1, 3 to 5

Shri K. D. Bade Patil, Advocate for the Respondent No. 2

CORAM : S. V. GANGAPURWALA AND

A. I. S. CHEEMA, JJ.

DATE : 30TH MARCH, 2015.

PER COURT :

1) Mr. Golegaonkar learned counsel submits that, tribe certificate of Kum. Snehlata that is the petitioner in writ petition No. 1792 of 2000 was referred to the Committee for validation. The same is invalidated by the Committee only on the ground that, the service book of the father of the petitioner records the caste as 'Koli'. While invalidating the tribe certificate of Kum. Snehlata, the tribe certificate in favour of the petitioner was also invalidated by the said judgment. The same is assailed by the father that is Gangaram in writ petition No. 4076 of 1999. The learned counsel submits that, the document produced on record by the petitioner were not even discussed and considered only on the ground that in the service book of Gangaram the caste 'Koli' was entered, the claim has been negatived. The same has been corrected. The Department has also filed affidavit in this case stating that, the petitioner Gangaram is considered from Sheduled Tribe Category and promotion is granted to him considering him from Sheduled Tribe Category and the correction has been carried out in the service book. The learned counsel submits that, subsequently in the year 2006, son of Gangaram and real brother of Kum. Snehlata is granted validity as belonging to 'Koli Mahadeo' Sheduled Tribe. According to the

learned counsel even the real cousin of the petitioner Kum. Snehlata have been granted validity in respect of their Tribe Certificate as belonging to 'Koli Mahadeo' Sheduled Tribe in the year 2005, 2008 and 2009. The learned counsel submits that, there was no impediment to grant validity in favour of the petitioner Kum. Snehlata.

2) Mr. Bade Patil the learned counsel for the Committee submits that, the petitioner failed in affinity test. The petitioners were not in a position to state the traits, characteristics of 'Koli Mahadeo' Sheduled Tribe. The validity certificates in favour of the real brother of Kum. Snehlata and that in favour of the first cousin are subsequent in point of time and the same were not before the Committee to check as to what was the evidence considered. No illegality has been committed by the Committee while passing order.

3) We have considered the submissions canvassed by the learned counsel for the respective parties. It is the matter of record that, Sudhir son of Gangaram Gadge has been issued the validity certificate as belonging to 'Koli Mahadeo' Sheduled Tribe. Said Sudhir is the son of petitioner in writ petition No. 4076 of 1999 and real brother of petitioner in writ petition No.

1792 of 2000, so also the first cousin of the petitioner has been given validity certificates as belonging to 'Koli Mahadeo' Sheduled Tribe. It is only on the basis of entry in the service book of petitioner Gangaram the judgment has been delivered by the Committee. The department has filled affidavit in reply stating that, petitioner Gangaram is treated from reserved category and the service book is also accordingly corrected. Though the validities referred supra are subsequent, they can be considered. Even the school record of the petitioner Kum. Snehlata shows her caste as 'Koli Mahadeo' and as far as the school record of the petitioner Gangaram is concerned there is no entry of any caste. The same can not be said to be a contra evidence.

4) In light of the above we pass the following order -

ORDER

A] The impugned judgment and order is quashed and set aside.

B] The respondent Committee shall issue validity certificate in favour of petitioner Kum. Snehlata D/o Gangaram Gadge as belonging to 'Koli Mahadeo' Sheduled Tribe.

5) Writ petitions are accordingly allowed and disposed of. Rule accordingly made absolute in above terms. No costs. Civil applications accordingly disposed of.

[A. I. S. CHEEMA, J.]

[S. V. GANGAPURWALA, J.]

sam/March. 15