

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.6620 OF 2015

Smt.Laxmibai w/o Balaji Darshewad,
age: 43 years, Occ: Peon,
R/o Kallamb, District Osmanabad.

Petitioner

Versus

1 The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai-32,
through its Secretary.

2 The Scheduled Tribe Caste
Certificate Scrutiny Committee,
Aurangabad Division, Aurangabad,
through its Joint Commissioner,
@ Vice Chairman.

3 The Deputy Collector (EGS),
Nanded.

4 The Collector,
Office of the Collectorate,
Osmanabad.

Respondents

Mr.Madhur A. Golegaonkar, advocate for the petitioner
Mr.A.R.Borulkar, A.G.P. for Respondents No.1, 3 and 4.
Mr.P.S.Patil, advocate for Respondent No.2.

**CORAM : R.M.BORDE &
A.I.S.CHEEMA, JJ.
DATE : 24th November, 2015**

ORAL JUDGMENT (Per R.M.Borde, J.):

1 Heard. Rule. Rule made returnable forthwith and
heard finally by consent of learned Counsel for respective parties.

2 The petitioner is objecting to the order dated 13.08.2015, passed by Respondent No.2-Scrutiny Committee, invalidating her claim and directing cancellation and confiscation of the tribe certificate issued in her favour, with liberty to the petitioner to obtain appropriate caste certificate afresh.

3 Petitioner claims to belong to 'Koli Mahadev', a Scheduled Tribe. The maiden name of the petitioner, prior to her marriage, is Laxmibai Ganpatrao Ghanewad, whereas, her matrimonial name i.e. changed name after marriage is Laxmibai w/o Balaji Darshewad. The petitioner tendered an application to the Deputy Collector, Nanded, for issuance of caste/tribe certificate in prescribed proforma 'A' under Rule 3 of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of Certificate) Rules, 2003 (for short, referred to as "Rules of 2003"). On consideration of application tendered by the petitioner, caste/tribe certificate has been issued in her favour certifying that she belongs to 'Mahadev Koli', Scheduled Tribe.

4 According to the Scrutiny Committee, the certificate issued is not in consonance with the provisions of the Rules of 2003. The Committee has also drawn a conclusion that the petitioner shall secure a caste certificate in her maiden name alone for seeking benefits. For drawing such conclusion, reliance is placed on the judgment in the matter of Islambai Mastan Tadavi Vs. State of Maharashtra & others (**Writ Petition No.642 of 2012, decided on 23.01.2012**). This Court has observed in the aforesaid judgment that, "a person's caste comes from his father's side and as such, petitioner be directed to file caste certificate of her father".

It does appear that the Scrutiny Committee has misconstrued the order passed by this Court. In the matter, before this Court, evidence in respect of caste of blood relations of the petitioner was not produced and said aspect was agitated before this Court and as such, the Court directed the petitioner therein to file caste certificate of her father. There is no prohibition to receive caste certificate in matrimonial name i.e. in the changed name after marriage. On reading rules 3 and 4 of the Rules of 2003 together with the form prescribed under the rules, such an inference that the petitioner-married woman shall obtain a certificate in her maiden name and not in her changed name after marriage, can not be drawn and arriving at such conclusion would amount to misreading the rules apart from the fact that such an inference would be devoid of common sense.

5 Rule 3 of the Rules provide for the procedure to be followed for obtaining Scheduled Tribe certificate. The rule records that the person, who claims to belong to Scheduled Tribe and desires to secure Scheduled Tribe certificate, shall submit application in form 'A' to the competent authority. There is no prohibition contained in the rule that the application by a married woman shall be only in her maiden name. Form 'A' appended to the Rules and more specifically column No.2(a) mandates the applicant to disclose name of her father and full address. The particulars in respect of father are required to be furnished so as to ascertain evidence in respect of caste/tribe of blood relations of the applicant. On consideration of application tendered in form 'A', the certificate shall have to be issued in observance of the procedure prescribed under the rules in form 'C'. It would be

permissible to record matrimonial name of married woman applicant together with name of her father. In the caste/tribe certificate produced on record, name of father of the petitioner does not appear to have been recorded, which mistake is curable.

6 In any case, since the caste/tribe certificate has been issued by the competent authority describing tribe of the petitioner as 'Mahadeo Koli, which is not in consonance with the description of the tribes in the Constitution Order, petitioner shall have to secure a certificate in prescribed form recording correct description of the tribe in view of the judgment delivered by this Court in the matter of **Sprakash s/o Subhash Bhople Vs. Deputy Collector, (Setu), Latur & others**, reported in (2015) 4 MhLJ 890.

7 In this view of the matter, this petition is allowed in terms of following directions:

(a) The petitioner shall tender an application to the Scrutiny Committee for issuance of certified/photostat copy of the caste/tribe certificate, produced by her for verification before the Scrutiny Committee, within a period of two weeks from today.

(b) On receipt of the application, the Scrutiny Committee shall issue certified/photostat copy of the caste/tribe certificate, produced by the petitioner for verification, within a period of one week.

(c) On receipt of certified/photostat copy of the caste/tribe certificate, same shall be tendered by the petitioner along with an

application to the Sub Divisional Officer, Nanded, within a period of two weeks from the date of its receipt.

(d) The Sub Divisional Officer shall issue caste/tribe certificate, as requested by the petitioner without embarking upon further inquiry into the matter in form "C" describing correct tribe of the petitioner i.e. "Koli Mahadev", within a period of three weeks from the date of receipt of the application.

(e) On receipt of the caste/tribe certificate from the Sub Divisional Officer, petitioner shall produce the same before Scrutiny Committee for verification, within a period of four weeks together with proposal in prescribed proforma.

(f) On receipt of the proposal, the Scrutiny Committee shall take appropriate decision in respect of validation of tribe certificate of the petitioner, as expeditiously as possible, preferably within a period of one year.

(g) During pendency and disposal of proposal by the Scrutiny Committee, the employer shall not take any adverse action against the petitioner.

7 Rule is accordingly made absolute. There shall be no order as to costs.

A.I.S.CHEEMA
JUDGE

R.M.BORDE
JUDGE