

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

WRIT PETITION NO.4504 OF 2002 WITH
CIVIL APPLICATION NO.1536 OF 2007 WITH
CIVIL APPLICATION NO.10297 OF 2010 WITH
CIVIL APPLICATION NO.6078 OF 2012 WITH
CIVIL APPLICATION NO.9495 OF 2012 WITH
CIVIL APPLICATION NO.11940 OF 2014

Sunil Gangaram Gadge
Age 23 years, Occ. Student,
R/o Gandhinagar, Biloli,
District Nanded

... PETITIONER

VERSUS

1. The State of Maharashtra
(through the Govt. Pleader,
High Court Building,
at Aurangabad)
2. The Caste Certificate Verification
Committee, M.S. Nasik
Now at Aurangabad
3. The Taluka Executive Magistrate,
Biloli, Tq. Biloli,
District Nanded

... RESPONDENTS

.....
Shri A.S. Golegaonkar, Advocate for petitioner
Shri S.G. Sangle, A.G.P. for State
Shri K.D. Bade Patil, Advocate for respondent No.2
.....

CORAM: S.V. GANGAPURWALA AND
 A.I.S. CHEEMA, JJ.

DATED: 5th May, 2015.

ORAL JUDGMENT (Per S.V. Gangapurwala, J.):

1. The tribe claim of the petitioner as belonging to Mahadeo Koli - Scheduled Tribe has been invalidated by the Committee. Mr. Golegaonkar, learned counsel for the petitioner 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 negated. The same has been corrected. The department has also filed affidavit in Writ Petition No.4076/1999 stating that Gangaram is considered from Scheduled Tribe category and promotion is granted to him considering him from Scheduled Tribe category and the correction has been carried out in his 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' Scheduled 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' Scheduled 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 Sunil.

2. Mr. Bade Patil, the learned counsel for the Committee submits that the petitioner failed in affinity test. The petitioner was not in a position to state the traits, characteristics of 'Koli Mahadeo' Scheduled Tribe. The validity certificates in favour of the real brother of the petitioner 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 the order.

3. This Court has allowed the Writ Petition No.4076/1999 filed by real sister of the petitioner, wherein the judgment of the Committee, invalidating the tribe claim of the sister of the petitioner has been set aside and the Committee has been directed to issue validity certificate in favour of the real sister of the petitioner.

4. There is no reason to take a different view in the present matter as the same is based on the same evidence.

5. In light of the above, we pass the following order:

6. The impugned judgment and order is quashed and set aside. The Committee shall issue validity certificate in favour of the petitioner Sunil s/o Gangaram Gadge as belonging to Koli Mahadeo Scheduled Tribe. Writ Petition is accordingly allowed. Rule is made absolute. No costs.

7. In view of disposal of the Writ Petition, all Civil Applications are disposed of.

8. Needless to state, in view of the directions given by this Court to issue validity certificate in favour of the petitioner, the petitioner may approach the employer.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)