

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.3402 OF 2012

Dhanraj Mahadu Dalvi

Petitioner

Versus

Ahmedkhan Mehetab Khan Pathan
and others

Respondents

None present for the petitioner.

Mr.A.S.Kulkarni, advocate holding for Mr.A.N.Nagargoje, advocate
for Respondent No.1.

Mr.B.V.Virdhe, A.G.P. for Respondents No.2 & 3.

CORAM : R.M.BORDE &

A.I.S.CHEEMA, JJ.

DATE : 14th January, 2016

PER COURT:

1 None appears for the petitioner.

2 The petition was prescribed for admission hearing on 04.01.2016. However, since Counsel for the petitioner was absent, the matter was adjourned to 11.01.2016. On 11.01.2016, when the matter was called out, Counsel for the petitioner remained absent. As such, matter is prescribed today for passing order of dismissal.

3 The petitioner claims to belong to Mahadev Koli, Scheduled Tribe. He secured caste/tribe certificate, in that regard, on 30.10.1978 and proceeded to lodge claim for restoration of land under Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974. The Additional Tahsildar, Sangamner, by his decision dated 17.08.1984, held that the land has been sold to the respondent without prior permission of the Government and as the owner

thereof was tribal, the sale deed of the suit land was illegal and directed the Village Officer to obtain possession of the suit land with standing crops from the non-tribal transferee and hand over same to the tribal transferor. The order was passed presuming that the non applicant Dhanraj Mahadu Dalvi belong to Mahadev Koli, Scheduled Tribe, without referring the matter to the Scrutiny Committee. The order passed by the Additional Tahsildar, Sangamner, was confirmed thereafter by the higher authority i.e. Additional Collector, Sangamner.

4 Being aggrieved by the order, complainant Ahmadkhan approached various authorities, such as The Tahsildar, Sub Divisional Officer, Sangamner, Additional Commissioner, Nashik Division, Nashik, this Court as well as Supreme Court. The proceedings taken up by complainant Ahmadkhan challenging decision of Additional Tahsildar, were rejected by the Maharashtra Revenue Tribunal, Pune. The challenge raised to the order passed by Maharashtra Revenue Tribunal, in Writ Petition No.4610 of 1986, was also turned down on the ground that findings of facts recorded by the lower Court cannot be interfered in writ jurisdiction.

5 The complainant - Ahmadkhan then presented an application to the Tribal Research Training Institute, Pune, stating that caste certificate dated 30.10.1978, issued by the Executive Magistrate, Sangamner, in favour of petitioner herein was a false certificate and matter of validity needs to be inquired into and it should be declared that petitioner herein does not belong to Mahadev Koli, Scheduled Tribe. Complainant also lodged a

complaint to the Secretariat of Hon'ble President of India and Office of the Hon'ble President of India forwarded the case to the Government of Maharashtra for appropriate action.

6 The matter was, thus, taken up by the Scrutiny Committee for consideration. During the course of inquiry by the Vigilance Cell, it was noticed that petitioner herein does not satisfy affinity test and information given by the petitioner regarding customs, traits, characteristics, family deity, festivals, way of marriages, do not match with Mahadev Koli, Scheduled Tribe. Apart from this, it was noticed that there was interpolation in the documents produced by the petitioner before the Committee. The School Leaving Certificate of son of petitioner Bhausahab Dhanraj Dalvi records his caste as Hindu Mahadeo Koli. However, during visit to the concerned school by the Vigilance Cell, with a view to verify original General Register maintained by the school, it was noticed that there was overwriting in respect of entry of caste. There were also scratches and changes therein. Apart from this, there is change in the ink used. It was noticed from the school record of petitioner's brother, his caste was found to have been recorded as Hindu Koli.

7 The petitioner earlier presented an affidavit executed by him before the Executive Magistrate, Sangamner, indicating his caste as "Pan Koli". Thus, the basic record tendered by the petitioner was found to be tampered with, apart from the fact that petitioner does not satisfy the affinity test. The Scrutiny Committee proceeded to direct that the tribe certificate issued in favour of the petitioner is invalid. It is also noticed by the Scrutiny

Committee that late Mahadu Dhondiba Dalvi, father of petitioner Dhanraj, was granted hal inam, since he belongs to "Panbhare Koli" caste, which is not recognised as a Scheduled Tribe. Apart from this, petitioner himself had tendered an affidavit on 02.07.1975 before the Executive Magistrate, Sangamner, to the effect that he belongs to Panbhare Koli caste.

8 In view of above, we do not find that the Scrutiny Committee has committed any illegality or material irregularity in directing invalidation of tribe certificate issued in favour of the petitioner. The well reasoned order, recorded by the Scrutiny Committee, does not call for any interference in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. Petition is devoid of substance.

9 Writ Petition stands dismissed. Pending Civil Applications do not survive and stand disposed of.

A.I.S.CHEEMA
JUDGE

adb/wp340212

R.M.BORDE
JUDGE