

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2122 OF 2016

Hanmant Siddhram Ambi (Koli). ..Petitioner.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. M. S. Karnik i/b Mr. A. D. Sale for the Petitioner.
Mr. R. G. Sawant, learned AGP for the State.
Mr. Ajit Kenjale a/w Rajesh Dharap for Respondent No. 4.

Coram : Ranjit More &
Dr.(Smt) S. S. Phansalkar-Joshi, JJ.
Date : **March 8, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties and learned AGP for the State.

2. By this petition filed under Article 226 of the Constitution of India, the Petitioner is challenging the order dated 7th November 2015 passed by the Divisional Caste Scrutiny Committee, Kolhapur. By the said order, the Petitioner's caste certificate is invalidated on the ground that the Petitioner has failed to establish his caste claim.

3. The Petitioner contested the election to Jath

Municipal Council held in the year 2012 on the seat reserved for the special backward category candidates. He contested this election with the help of caste certificate [dated 4th October 2012] issued in his favour by the Dy. Collector and Special Land Acquisition Officer, Sangli No.1, Sangli. In the said certificate it is mentioned that the Petitioner belongs to "Koli" caste. This certificate was thereafter sent to Respondent No.2 to examine its validity. Respondent No.4 opposed the grant of validity and contested the Petitioner's claim. Respondent No.2 after hearing the Petitioner and Respondent No.4 and after going through the report of the Vigilance Cell came to the conclusion that the Petitioner failed to prove that he belongs to "Koli" caste. It was held that the Petitioner has migrated from Karnataka State and therefore, he is not entitled to claim the benefits of reservations in the State of Maharashtra.

4. In order to claim that the Petitioner belongs to Koli caste, the Petitioner has relied upon birth certificate of himself, birth certificate of his father, affidavit dated 15th December 2012 made by himself. The Scrutiny Committee, however, placed

reliance on the school leaving certificate of the Petitioner and the statements of the witnesses examined by the Vigilance Cell. The school leaving certificate of the Petitioner shows his date of birth to be 1st June 1975 and that he belongs to Hindu Talwar caste. Name of the Petitioner is shown as Hanmant Shidram Ambi. This school leaving certificate is issued by Sankonatti Vidyalaya, Sankonatti, District Belgaum, Karnataka State. On the basis of this School Leaving Certificate, Respondent No.2 has disbelieved the birth certificate produced by the Petitioner since the date of birth mentioned in the said birth certificate is shown to be 25th January 1975 and name of his father is shown as Somana. Birth certificate of the Petitioner's father is also not believed by Respondent No.2-Caste Scrutiny Committee on the ground that there are over-writings in this certificate. The Petitioner by filing an affidavit has affirmed that his father was known by the names Somana @ Sidram @ Somu. This is obviously after-thought and rightly not accepted by Respondent No. 2.

5. Be that as it may, the Vigilance Cell examined two persons, namely, Yallapa Gurbusu Koli and Dilip Ganesh Khot.

The Petitioner claims that name of his grand-father is Tamanna, however, the witness Yallappa, who is the grand-son of Tamanna has stoutly denied the said claim of the Petitioner before the Vigilance Cell. Witness – Dilip Khot, who is police patil of village Bilur too has stated that he saw the Petitioner for the first time when the Petitioner was elected as Councillor.

6. Taking into consideration the entire material, the Scrutiny Committee came to the conclusion that the Petitioner has failed to prove that he was born in Maharashtra prior to the cut off date, i.e., 13th October 1967 and accordingly invalidated his caste certificate. We do not find any justification to take a contrary view. The petition is without any merit and the same is, therefore, dismissed.

[Dr. (Smt.) S. S. Phansalkar-Joshi, J.]

[RANJIT MORE, J.]