

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.2480 OF 2011

**Pradip S/o Soma Solunke Vs. The Principal, Maharashtra
Police Academy, Trymbak Road, Nashik and others**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.L.V.Sangit, advocate for the petitioner.
Mr.P.S.Patil, Additional Government Pleader for the
State.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**

Date : 18.01.2017.

PER COURT :

1. Heard.
2. The tribe claim of the petitioner as belonging to Tokre Koli – Scheduled Tribe has been invalidated. Aggrieved thereby, the present petition.
3. Mr.Sangit, learned counsel for the petitioner strenuously contends that the Committee failed to consider the validity certificates granted in favour of the paternal cousins of the petitioner. The paternal cousins of the petitioner have been granted validity certificates of Tokre Koli – Scheduled Tribe. The said evidence is unimpeachable. The evidence which was relied while

granting validities in favour of near relatives, the same evidence has been relied to negative the claim of the petitioner. The genealogy filed on record proves the fact that the persons who have been given validity certificates and produced on record are mere blood relatives of the petitioner. The same ought to be considered.

4. The learned counsel in alternate submits that the petitioner was appointed in the year 1990 by following due selection process through M.P.S.C. His services be protected.

5. Mr.Patil, learned Additional Government Pleader submits that not a single document produced by the petitioner refers to his caste as Tokre Koli. Documents of the petitioner's grand father, father or the petitioner himself refers to the caste as Koli or Suryawanshi Koli. In view of the said contra evidence, the Committee has rightly invalidated the tribe claim of the petitioner. The learned Additional Government Pleader further submits that the petitioner having been appointed from the reserved category and his claim being invalidated, is not entitled for the protection in service.

6. We have perused the judgment delivered by the Committee and the documents produced by the petitioner. There are validity certificates produced by the petitioner of his distant cousins. We would have considered the case of the petitioner on the lines of validity certificates being issued to the distant paternal relatives of

the petitioner, however, we can not persuade ourselves to accept the said proposition in view of the contra evidence on record. The School record of the petitioner himself refers to his caste as Hindu Suryawanshi Koli which is categorised in Special Backward Class. Even the School record of his cousin grand father records the caste as Hindu Koli and that of the father of the petitioner as Hindu Koli. Considering the contra evidence on record, it is not possible to accept the contention of the petitioner. The Committee as such has not committed any error in negating the tribe claim of the petitioner as belonging to Tokre Koli – Scheduled Tribe.

7. The petitioner is appointed in the year 1990 through M.P.S.C. It can not be said that the petitioner has obtained certificate by fraud or misrepresentation. The petitioner could not get the necessary evidence. In view of the judgment of the Full Bench of this Court in the case of **“Arun S/o Vishwanath Sonone Vs. State of Maharashtra and others”** reported in **2015 (1) Mh.L.J. 457**, the services of the petitioner can be protected. However, if any benefits are given to the petitioner on or after 18.10.2001 on the basis of the petitioner belonging to Scheduled Tribe category then the petitioner would not be entitled to retain the said benefit.

8. The petitioner hence-forth shall not claim benefit of reservation of belonging to Scheduled Tribe in service or in any

walk of life. The entry of this order be taken in service book of the petitioner.

9. The Writ Petition is accordingly disposed of with aforesaid observations. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.18.01.2017.
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