

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

WRIT PETITION NO. 8369 OF 2013

**SANJAY SUKHLAL NAVSARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**...
Advocate for Petitioner : Barlinge S.R.
AGP for Respondents: Mr.P.S.Patil for R.1 and 2.
Advocate for Respondents : None for R.3.**

.....

**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL,JJ.**

DATE : 27/09/2017

PER COURT :-

Mr.Barlinge, learned counsel submits that the vigilance committee in its report has nowhere stated that there is any over-writing or scoring in respect of the caste mentioned in the old documents of 1938, 1946, however, the committee for the first time in the judgment has made observations in this regard. The committee at no material point of time ever issued notice to the petitioner with regard to the observation of the committee of overwriting and scoring. The petitioner was taken by surprise. The vigilance has considered the original record and has not found any scoring, then the observation of the committee in this regard without issuing notice to the petitioner or without bringing this fact to the notice of the petitioner is erroneous. The old documents clearly state the caste of petitioner's ancestors being recorded as Koli Malhar. All the documents consistently recorded the caste as Koli Malhar and only in one document of the petitioner, the caste is wrongly recorded as

Tokre Koli. The learned counsel submits that the petitioner applied for the correction of the same. That "Tokre Koli" is also included in Scheduled Tribe.

2] Mr.Patil, learned AGP supports the order.

3] The report of the vigilance is silent with regard to scoring or overwriting in the documents, however, the committee in its judgment has observed about the caste Malhar is written in a different ink or there being over-writing. The petitioner had filed reply to the report of the vigilance. Naturally the petitioner has no occasion to deal with the aspect of scoring or over-writing in the caste in the old record as observed by the committee in view of the fact that the vigilance report was silent on the said aspect.

4] In order to give fair opportunity to the petitioner, we set aside the order of the committee and remit the matter back to the committee. The petitioner may file his reply with regard to the observation of committee of the old record. The committee shall thereafter decide the said proceeding afresh expeditiously. The petitioner shall appear before the committee on **12/10/2017**. The committee shall decide the proceeding within three months from the date of appearance of the petitioner.

5] The Writ Petition is accordingly part allowed. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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