

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11599 OF 2017

Lata Limbaji Sarje @
Latabai Rajendra Ghante

.. **Petitioner**

Versus

The State of Maharashtra and another

.. **Respondents**

Mr. P. V. Jadhavar, Advocate for the Petitioner.
Shri P. S. Patil, A. G. P. for the Respondents.

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

DATE : **21st September, 2017**

PER COURT :

1. Mr. Jadhavar, learned counsel for the petitioner submits that while rejecting the application of the petitioner for issuance of tribe certificate of 'Koli Mahadev' scheduled tribe, the S.D.O. has made observation that in the bonafide certificate of the petitioner no caste is mentioned, still, it is observed by the S.D.O. that caste 'Koli' is recorded in bonafide certificate. So also, in respect of Khasra Pahani Patra the name of great grand father is only recorded and no caste is recorded. Two real brothers of the petitioner are issued with the tribe certificate of 'Koli Mahadev' scheduled tribe.

2. Mr. Patil, the learned counsel submits that, all the evidence produced is of recent period. There is no trustworthy evidence to conclude that the petitioner belongs to scheduled tribe.

3. In normal course, we would not have entertained the present writ petition and would have relegated the petitioner to the alternate remedy. However, considering that the petitioner is contesting the election and last date for filling nomination is tomorrow and that the petitioner has filed an undertaking to this court that she has to fill in the nomination form and she will not withdraw her name, we have entertained the present writ petition.

4. It appears that two real brothers of the petitioner are already issued the tribe certificate of 'Koli Mahadev' scheduled tribe. The school record of the petitioner and her brother records the caste as 'Koli Mahadev'. In the bonafide certificate no caste is recorded, so also, in Khasra Pahani Patra the caste of great grand father is not recorded but only name is recorded. Under misconception the S.D.O. has observed that caste 'Koli' is recorded of great grand father of the petitioner in Khasra Pahani Patra.

5. At the time of issuance of tribe certificate only prima facie satisfaction would be sufficient as this tribe certificate has to undergo the scrutiny at the time of validation by the committee.

6. The learned counsel submits that, the undertaking, that the petitioner would fill in the nomination and will not withdraw it, will be filed within 2 days.

7. In light of the above, the impugned order is quashed and set aside.

8. The respondent No. 2 shall issue the tribe certificate to the petitioner of 'Koli Mahadev' scheduled tribe immediately.

9. The learned A.G.P. shall communicate this order to the respondent No. 2.

10. The writ petition is disposed of. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

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