

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6665 OF 2015

Kunal Kamlakar Wetkoli

..Petitioner

Versus

State of Maharashtra and others

..Respondents

Mr. R. K. Mendadkar for the Petitioner.

Ms. Kavita N. Solunke, AGP for the Respondent Nos.1 & 2.

**CORAM : B. R. GAVAI &
SANDEEP K. SHINDE, JJ.
DATE : 3rd OCTOBER, 2017**

PC.

1] Rule. Rule made returnable forthwith. Heard by consent.

2] The Petitioner challenges the order passed by the Respondent No.2 Scrutiny Committee, thereby invalidating the claim of the Petitioner belonging to "Mahadev Koli" Scheduled Tribe.

3] It is the contention of the Petitioner that the document pertaining to 1937 i.e. the extract of birth and death register shows the Petitioner's grandfather to be belonging to "Mahadev Koli". It is submitted that the said document has not been properly considered by the Scrutiny Committee.

4] A perusal of the impugned order reveals that the Respondent

No.2 has refused to rely on the said document only on the ground that against the caste “Mahadev Koli”, it is nowhere written as Scheduled Tribe. We find that the reasoning given is without substance. In 1937, there could not have been occasion to write Scheduled Tribe.

5] Apart from that, the committee has specifically observed that though the said document was given to the vigilance cell, in the conduct of the enquiry, the vigilance cell has not verified the same from the original register in the office of the Tahsildar.

6] The work of the vigilance cell is to verify the original documents from the record with regard to their genuineness. We find that the vigilance cell ought to have enquired into the genuineness of the said document. In view of the judgment of the Apex Court in Anand V/s. Committee for Scrutiny of Tribe Claims and others.¹ the pre-constitutional documents would have more probative value.

7] In the result, the impugned order is not sustainable in law. Rule is therefore made absolute by quashing and setting aside the impugned order.

8] The matter is remitted back to the Scrutiny Committee. The

1 (2012) 1 SCC 113.

(7)-WP-6665-15.doc.

Scrutiny Committee is directed to conduct an enquiry through Vigilance Cell in respect to the Petitioner's grandfather's document of 1937. After verifying the said document, the Scrutiny Committee shall re-hear the Petitioner and pass an appropriate order in accordance with law. It is directed that till the decision of the Scrutiny Committee, no coercive steps to be taken against the Petitioner.

[SANDEEP K. SHINDE, J]

[B. R. GAVAI, J]