

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

WRIT PETITION NO. 6948 OF 2010

Ramchandra Chandrakant	}	
Bedekar	}	Petitioner
versus		
State of Maharashtra	}	
and Ors.	}	Respondents

Mr. R. K. Mendadkar with Mr. Tanaji
Jadhav for the petitioner.

Ms. Sushma Bhende - AGP for respondent
nos. 1 to 4.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.**

DATED :- JANUARY 27, 2017

P.C. :-

1. The petitioner has challenged in this writ petition the order passed by the Caste Scrutiny Committee.
2. By the impugned order, copy of which is annexed as Annexure 'A' to the petition, the petitioner's claim, as belonging to Mahadev Koli Scheduled Tribe, has been rejected. His caste certificate has been, therefore, invalidated.
3. During the course of arguments, the attention of this court was invited to the principal grievance that neither the Vigilance

Cell nor the committee has considered a document at page 34 of the paper book, which pertains to the real cousin uncle of the petitioner, although it was tendered before the committee on 7th March, 2009, as set out in para 7 of the writ petition. That is how this court directed issuance of notice. Later on, this court, by a further order, directed the respondents to produce the document at page 34, verified through the Vigilance Cell attached to the respondent no. 1 committee. A report of the verification was to be directly submitted to this court in a sealed cover within a period of four weeks. The matter was thus stood over.

4. On several dates thereafter, the matter could not be taken up. On 6th January, 2014, this court records as under:-

"1] Report of the Vigilance Cell dated 01.04.2013 in terms of the directions of this Court is taken on record and marked 'X' for identification.

2] The report records that in the General School Register there appears to be an interpolation, in the sense, that the word "Mahadev" after "Hindu (Koli)" has been written in a different ink. We direct the concerned Officer of the Vigilance Cell to place on record the photocopy of the relevant page of the General School Register on the basis of which the report has been submitted. A copy of the report as well as photocopy of the relevant page of the General School Register shall be supplied to the Petitioner.

3] Stand over till 29.01.2014. To be listed in the category of "Fresh Matters".

5. On 29th January, 2014, this court referred to a report dated 3rd April, 2013 submitted by the Caste Scrutiny Committee. It

also perused the General Register of Raigad Zilla Parishad Marathi School, Taluka Shrivardhan, District Raigad. From the original record, the court found that there were six entries. In cases of five entries, the word "Mahadev" has been subsequently added and which appeared to this court in a different ink. That is how a colour photocopy of that page was placed on record. The colour photocopy was to be filed as also this court granted an opportunity to the petitioner to file a further affidavit. After all this and when the matter was again listed to consider the request of the petitioner's advocate to obtain copies of the relevant documents and record and to enable him to file the affidavit, the matter has been repeatedly adjourned.

6. Now, the additional affidavit is taken on record by this court. In the additional affidavit, the petitioner refers to the inquiry report submitted by respondent no. 2 scrutiny committee before this court. He also refers to the contents of the report and to the extent that the Vigilance Cell has recorded a finding that in the entry of cousin uncle of the petitioner Mahadu Ramji Benduk, in the School Admission Register, being Register No. 49, Book No. 1, the caste is written is as Hindu Koli, in which, "Mahadev" is written in different ink and handwriting. Thereafter, the colour photocopy of that document has been referred and it has then

been contended in para 5 of this additional affidavit, filed on 7th March, 2014, that this is not a position only in relation to the entry of the cousin uncle of the petitioner. There are several entries and which have been made later on.

7. After perusal of all these materials, we put it to Ms. Bhende, learned AGP as to how this court would be in a position to come to any definite conclusion as to whether the petitioner indeed belongs to Mahadev Koli Scheduled Tribe. We equally put it to Mr. Mendadkar that this court cannot be converted into a fact finding authority when it is entertaining a writ petition under Article 226 of the Constitution of India. The moment the petitioner highlighted the grievance that there was a vital document, which has been omitted from consideration of the committee, then, it is the bounden duty of that committee to refer to all the materials once again and decide whether this documentary evidence relied upon is indeed reliable and trustworthy or that there is a deliberate attempt on the part of the petitioner and others concerned to mislead the committee and by relying upon a doubtful or dubious document. These are matters which must go back to the committee for reconsideration and re-verification. We cannot, in the garb of entertaining a petition against the order of a committee, now undertake this

factual exercise, when it is conceded that this document was not looked into by the committee.

8. As a result of the above discussion and by keeping open the rival contentions, we proceed to dispose of the writ petition with the following directions:-

(i) The impugned order of the committee, copy of which is at Exhibit 'A' to the petition is quashed and set aside.

(ii) The matter is remanded back to the committee to consider the petitioner's tribe claim once again and by referring to all the relevant and germane documents, including the entries in the school register, which have been highlighted in this court's earlier orders and directions.

(iii) The committee shall not be influenced by any tentative and *prima facie* observations of this court. It must give full opportunity to the petitioner to meet and rebut the contents of any Vigilance Cell report or other report and equally with an open mind consider the entries in the register relied upon by the petitioner. All this must be looked into and the committee shall pass a fresh order as expeditiously as possible and within a period of two months from the date of receipt of a copy of this order.

(iv) The committee, while passing the fresh order, shall not be influenced by any earlier conclusions and observations.

9. We clarify that we have not expressed any opinion on the rival contentions.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)