

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7591 OF 2013

Sanjay Pralhad Sangale ... Petitioner
Vs.
State of Maharashtra & Ors. ... Respondents

WITH
WRIT PETITION NO. 4873 OF 2013

Shri Ishwar S/o Pralhad Sangale ... Petitioner
Vs.
State of Maharashtra & Ors. ... Respondents

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Mr. R.K. Mendadkar for the Petitioner in WP/7591/2013.
Mr. Prabhakar M. Jadhav for the Petitioner in WP/4873/2013.
Ms. Sushma Bhende, AGP for Respondent Nos. 1 & 2 in
WP/7591/2013 and for Respondent Nos. 1 to 6, 13 & 14 in
WP/4873/2013.
Mr. Rajendra Raghuwanshi a/w Mr. D. A. Nalawade i/b. Mrs.
Rutuja Ambekar for Respondent No.3-UOI in WP/7591/2013.

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

DATE : MARCH 22, 2017.

P.C. :

1. The petitioners have stated before us that they do not wish to challenge the orders dated 12th July, 2013 (Writ Petition No. 7591 of 2013) and 21st February, 2013 (Writ Petition No. 4873 of 2013), passed by the respondent-Scrutiny Committee .

2. The petitioners were appointed against a reserved seat and meant for Scheduled Tribe on the establishment of the 3rd respondent in Writ Petition No.7591 of 2013 and the 7th respondent in Writ Petition No. 4873 of 2013 respectively, in the year 2005. The posts were reserved for Scheduled Tribe. The petitioners obtained certificates certifying them as belonging to 'Koli Mahadev' Scheduled Tribe. Those certificates dated 13th September 1993 and 2nd July, 1992 respectively, on the strength of which the appointments were obtained, were forwarded for scrutiny and verification to the competent Scrutiny Committee. That has invalidated their claims. Therefore, the petitioners cannot be held to be 'Koli Mahadev' Scheduled Tribe.

3. Once the tribe certificates, and obtained in the above terms certifying the petitioners as 'Koli Mahadev' Scheduled Tribe, are cancelled, then, the petitioners cannot be treated as Scheduled Tribe candidates. The finding of fact by the Committee is that the petitioners have miserably failed to establish and prove their claims towards this tribe. The alternate argument of Mr. Mendadkar is that the Committee holds that the petitioners belong to 'Koli'. As far as 'Koli' is concerned, that is a Special Backward Class recognized by the State of Maharashtra. Such of these persons (Kolis), who are in employment of the State prior to 15th June, 1995, are therefore protected in terms of the Resolution of the State Government treating them as Special Backward Class. Mr. Mendadkar would submit that once the petitioners are held to be 'Koli' and which is recognized as Special Backward Class by the

State Government by a Notification in the official Gazette, the petitioners' employment with the 3rd respondent (Writ Petition No.7591 of 2013) and the 7th respondent (Writ Petition No. 4873 of 2013) respectively, which is protected by an interim order passed by this Court should be protected and they should be allowed to work till they attain the age of superannuation. The petitioners undertake that they will not claim any benefit meant for 'Koli Mahadev' Scheduled Tribe. They and their families, therefore, will not seek any benefit, concession or relaxation in terms of this tribe certificate hereafter. They have given up their claim and voluntarily. On such undertaking, the petitioners pray that their Services, which are protected from 21st August, 2014 by this court, to be further protected. We do not have any pleading and which would enable us to hold that the petitioners can derive any benefit from any Notification of the State Government. The petitioners argued these petitions by pressing the grounds, namely, that they belong to 'Koli Mahadev' Scheduled Tribe and the Scrutiny Committee was in error in invalidating their tribe certificate. Now that the Court is not inclined to quash and set aside the Scrutiny Committee's order, this alternate request and submission is canvassed for which there is no foundation in the pleadings.

4. In the circumstances, we express no opinion on that part of the controversy. We continue the ad-interim order dated 21st August, 2013 for a period of two months within which the petitioners are free to make such request as is contemplated, and

in writing, for continuation in services as 'Koli' Special Backward Class and not as a Scheduled Tribe. That request be independently examined by the competent authority and a decision be taken thereon uninfluenced by the order of the Scrutiny Committee. The Writ Petitions are disposed of with these directions.

(B. P. COLABAWALLA, J.)

(S. C. DHARMADHIKARI, J.)