

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10690 of 2016

Smt. Joyti Giridhar Idekar

...Petitioner

Versus

State of Maharashtra through its
Secretary, Tribal Development and Ors.

...Respondents

Mr. R. K. Mendadkar, for the Petitioner.

Mr. V. N. Sagare, AGP for the Respondent-State.

CORAM : B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.

DATE : 20 July 2017

JUDGMENT : (Per Riyaz I. Chagla, J.)

1. Petitioner by the present petition challenges the impugned communication dated 24th July 2016 issued by Respondent No.2 Sub Divisional Officer, refusing to issue caste certificate to

the Petitioner who is belonging to the “Koli Mahadeo, Scheduled Tribe”.

2. The Petitioner had been initially refused caste certificate by the Competent Authority. The Petitioner filed an Appeal before the Appellate Authority and the Appeal came to be rejected by an order dated 30th October 1993. The Petitioner being aggrieved filed Writ Petition No.1435/1994 in this Court and the Writ Petition was allowed by an order dated 24th March 1994 and it was declared that the Petitioner is belonging to the Mahadeo Koli, Scheduled Tribe and the order passed by the Appellate Authority was quashed and set aside with a direction to Respondent No.2 to issue the caste certificate within a period of two weeks. Pursuant to the said order, the Competent Authority i.e. Executive Magistrate, Shriwardhan Dist. Raigad granted caste certificate to the Petitioner as belonging to the Mahadeo Koli, Scheduled Tribe. The Petitioner came to be appointed on the basis of the caste certificate to the post of Assistant Teacher. The Petitioner was directed to submit

documents for verification of her claim to be belonging to the Scheduled Tribe. The Petitioner filed the prescribed application form online to Respondent No.3 Scrutiny Committee mentioning in the relevant column of the application form, the caste as “Mahadeo Koli”. However, because of not mentioning the correct nomenclature as caste as “Koli Mahadeo, Scheduled Tribe” as per this specific notification, her application for verification was not processed. The Petitioner has relied upon the judgments passed by this, Court at Aurangabad Bench in Writ Petition No.4536/2014 with 4542/2014, dated 14th August 2014 and in Writ Petition No.8738/2015, dated 26th August 2015, by which judgments this Court was pleased to direct all concerned Authorities to issue caste certificates as belonging to “Koli Mahadeo, Scheduled Tribe” if the earlier caste certificate were issued by the Competent Authorities as belonging to “Mahadeo Koli, Scheduled Tribe”, made an application dated 4th July 2016 to the Respondent No.2 for grant of caste certificate in the correct nomenclature as “Koli Mahadeo, Scheduled Tribe”. The Respondent No.2 Sub

Divisional Officer, without hearing the Petitioner refused by the impugned communication to issue the caste certificate to the Petitioner in the correct nomenclature as “Koli Mahadeo, Scheduled Tribe” on the ground that the Petitioner did not produce documentary evidence as “Koli Mahadeo”s prior to 1950 as per G.R. dated 7th March 1996. The Petitioner has filed the present Petition challenging the impugned communication of Respondent No.2.

3. Shri. Mendadkar, learned counsel for the Petitioner has submitted that the present Petition is squarely covered by the prior judgments of Aurangabad Bench of this Court in Writ Petitions 4536/2014 with 4542/2014 and 8738/2015 (supra). Shri. Mendadkar had submitted that the Aurangabad Bench of this Court had directed Sub Divisional Officer to carry out the necessary change in the nomenclature, where “Mahadeo Koli” had been mentioned instead of “Koli Mahadeo” and to issue the caste certificate in the correct nomenclature “Koli Mahadeo, Scheduled Tribe”. It was observed by the Court that there were

several caste certificates which had been issued in favour of persons belonging to “Koli Mahadeo” category by referring to the tribe as “Mahadeo Koli” and such certificate had been validated by the Scrutiny Committees and orders have been issued in favour of thousands of Applicants. The Aurangabad Bench of this Court has held that there is no separate tribe or caste in the State of Maharashtra as “Mahadeo Koli”. The appropriate change was thus directed by the Court to the Competent Authority/Sub Divisional Officer to issue caste certificates on the basis of production by the Applicant of the caste certificate issued in favour of the Applicant, earlier, without insisting on any other evidence. Shri. Mendadkar further submitted that the Petitioner had previously approached this Court by filing Writ Petition 5658/2016 being aggrieved by an order dated 24th November 2015 passed by the Sub Divisional Officer refusing the Petitioner's application for grant of caste certificate in regard to her being “Koli Mahadeo” on the ground that the Petitioner did not submit evidence in support of her claim. By an order dated 20th January 2017, this Court

relying on the Aurangabad Bench judgment of this Court in Writ Petition No.8738/2015 (supra) set aside the impugned order of the Sub Divisional Officer and directed the Sub Divisional Officer to decide the Petitioner's claim afresh keeping in view the observations made in the said judgment of this Court, Aurangabad Bench and issue the certificate. Shri. Mendadkar has submitted that a similar order is required to be passed in the present Petition as the Respondent No.2 by an impugned communication has refused to issue caste certificate to the Petitioner as belonging to "Koli Mahadeo, Scheduled Tribe".

4. Shri. Sagare, learned AGP for Respondent-State has not been able to justify the impugned communication and has only contended that the Petitioner had not produced any document in support of her claim of belonging to the caste of "Koli Mahadeo, Scheduled Tribe".

5. We are of the considered view that the present Petition is covered by the above referred judgments of the Aurangabad Bench of this Court followed in the order dated 20th January

2017 in Writ Petition No.5658/2016 filed by the Petitioner. We are of the considered view that this Court has consistently taken the stand that caste certificate have been issued in favour of persons belonging to “Koli Mahadeo, Scheduled Tribe” where the Tribe has been referred to “Mahadeo Koli” and such certificates have been validated by the respective Scrutiny Committees. The Scrutiny Committees have not objected to the reference of the Tribe as “Mahadeo Koli” instead of “Koli Mahadeo”. It is an admitted position that there is no separate Tribe or caste in the State of Maharashtra as “Koli Mahadeo”.

6. We accordingly pass the following order:-

ORDER

(i) Writ Petition is allowed.

(ii) The impugned order is quashed and set aside, and the matter is remitted back to the Respondent No.2 – the Sub Divisional Officer to decide the Petitioner's claim in the light of the observations made in the judgment of this Court (Aurangabad

Bench) date 14.08.2014 passed in Writ Petition No.4536 of 2014 (**Prakash Bhople Vs. Dy. Collector (General), Latur & Ors.**), and issue the certificate to the Petitioner as per his entitlement. Respondent No.2 shall take the decision within a period of four weeks from today.

[RIYAZ I. CHAGLA J.]

[B.R. GAVAI, J.]