

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

WRIT PETITION STAMP NO.34619 OF 2017

Smt. Kavita Raghunath Mule : Petitioner.
Versus
The State of Maharashtra
Through its Secretary
Scheduled Tribe Department and ors. : Respondents.

Ms.Sandhya Mailagir i/by Mr. Anil D Joshi for the Petitioner.
Mr. A.I. Patel, Addl.GP for the Respondent/State.
Mr. S N Biradar for the Caveator.

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE, JJ.**
DATE : 13th December 2017

P.C.

1 The above Writ Petition takes exception to the order dated 21/11/2017 passed by the Scheduled Tribe Certificate Scrutiny Committee Konkan Division, Thane (for short "Caste Scrutiny Committee") by which order the validity certificate issued to the Petitioner as belonging to Mahadev Koli, Scheduled Tribe came to be cancelled.

2 The Petitioner had contested the election from Ward No.6 of the Gram Panchayat, Wada for which purpose she applied for issuance of the Caste Validity Certificate as belonging to Mahadev Koli, Scheduled Tribe which was granted to her by the order dated 17/08/2012 and thereafter a certificate came to be issued to her on 30/08/2012. The tenure of the Petitioner as a member of the Gram Panchayat, Wada has come to an end. It seems that at

the time when the Petitioner applied for the Caste Validity Certificate the Petitioner had relied upon the Caste Validity Certificate issued to her cousin viz. Prakash Parshuram Mule. In view thereof, it seems that the vigilance inquiry as mandated to be carried out was not carried out in the case of the Petitioner.

3 A complaint was received as regards the Caste Validity Certificate issued to the Petitioner from one Deepak Gangaram Choudhary and one Bhaskar Dalvi. The said complaint was to the effect that the Petitioner does not belong to Mahadev Koli which is a Scheduled Tribe. In view of the said complaint received, an inquiry was carried out by the Caste Scrutiny Committee as regards the Caste Validity Certificate issued to the Petitioner.

In the said inquiry the complainants produced material in support of their assertion that the Petitioner does not belong to Mahadev Koli which is a Scheduled Tribe. In the said inquiry it was revealed that the Caste Validity Certificates issued to one Gitesh Prakash Mule and Shraddha Prakash Mule who are the children of the cousin of the Petitioner viz. Prakash Parshuram Mule have been cancelled and that Prakash Parshuram Mule had filed an affidavit before the Committee that the decision taken by the Caste Scrutiny Committee in respect of his children Gitesh and Shraddha is acceptable to him and that he would not challenge the order passed by the Caste Scrutiny

Committee in the High Court. It was further revealed that the Caste Validity Certificate issued to the Petitioner's cousin Prakash Parshuram Mule on which certificate reliance was placed by the Petitioner to obtain the Caste Validity Certificate had also been cancelled after due inquiry by order dated 13/04/2017. The Caste Validity Certificates of two other cousins of the Petitioner viz. Priyanka Bhaskar Mule and Vaishali Balkrushna Mule as belonging to Mahadev Koli have also been cancelled. It was further revealed that Prakash Parshuram Mule had applied to the Sub Divisional Officer under the Maharashtra Land Revenue Code for his lands being released from the protection of Sections 36 and 36A of the Maharashtra Land Revenue Code (applicable to lands belong to the tribals) on the ground that the said Prakash Parshuram Mule was a Brahmin and that the lands owned by him would therefore not qualify for such protection. The said application was acceded to and the lands owned by the said Prakash were released from the protection of Sections 36 and 36A of the Maharashtra Land Revenue Code. It was also revealed during the course of the said inquiry that one of the Petitioner's ancestor had married an Adivasi and from then onwards it seems that the family members of the Petitioner were claiming to belong to the said Scheduled Tribe.

4 It is in the light of the aforesaid conspectus of facts that the Caste Scrutiny Committee came to a conclusion that the Petitioner's Caste Validity

Certificate as belonging to Mahadev Koli which is a Scheduled Tribe was required to be cancelled and has accordingly cancelled the same by the impugned order.

5 The learned counsel appearing for the Petitioner Ms. Sandhya Mailagir would draw this Court's attention to the entries in the School Register as well as the School Leaving Certificates of Balkrushna Mohiniraj Mule, Vishwanath Balkrushna Mule, Jayshree Yaswhant Mule and Mahadev Mohiniraj Mule who are the Petitioner's ancestors to buttress her contention that the Petitioner in fact belongs to Mahadev Koli, Scheduled Tribe. The learned counsel for the Petitioner would also seek to place reliance on the order dated 09/07/2015 passed by a Division Bench of this Court in Writ Petition No.5748 of 2015 in the matter of Smt. Vaishali Balkrushna Mule v/s. The State of Maharashtra, Through its Secretary and ors.

6 In our view, the said School Leaving Certificates would not further the case of the Petitioner having regard to the material on record which we have referred to herein above and which includes the cancellation orders passed by the Caste Scrutiny Committee in respect of her cousins and her nephew and niece which includes Prakash Parshuram Mule on whose Caste Validity Certificate the Petitioner had relied on to obtain her own Caste Validity Certificate and whose Caste Validity Certificate as indicated above has been

cancelled by the Caste Scrutiny Committee. In our view the said order dated 09/07/2015 passed by the Division Bench would also not aid the Petitioner, as the Division Bench in the said case seemed to be concerned with the fall out of the order passed by the Caste Scrutiny Committee cancelling the Caste Validity Certificate, on the employment of the Petitioner therein as the Petitioner therein was in service since the year 1991.

7 In our view, therefore, no exception would be taken to the order passed by the Caste Scrutiny Committee. No case for interference in the writ jurisdiction of this Court is therefore made out. The above Writ Petition is accordingly dismissed.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]