

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO. 129 OF 2018

Adiwasi Chetna Parishad,
Through Chairman
Dr. Shridhar Khandu Salunke

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. P.R. Katneshwarkar, Advocate for Petitioner
Mrs. A.V. Gondhalekar, AGP for Respondent/State

**CORAM : PRASANNA B. VARALE AND
MANISH PITALE, JJ.**

DATE: 17th OCTOBER, 2018

ORAL ORDER :

1. Heard the learned Counsel Mr. Katneshwarkar appearing for the petitioner. The petitioner is claiming to be Chairman of unregistered Association. The petitioner submits that, he is espousing the cause of a public interest and the prayers in the petition are -

(A) This Hon'ble Court may be pleased to direct to respondents that, while granting Scheduled Tribe validity certificate they should all Kolis in Khandesh

either as belonging to Koli Dhor or Tokre Koli and shall give validity certificate of scheduled tribe;

(B) This Hon'ble Court may be pleased to direct the respondents that, while deciding the scheduled tribe Kolis in Khandesh the authority shall not deny the claim of Scheduled Tribes Koli simply because the school record or revenue record shows entry as Koli and not as Koli Dhor or Tokre Koli.

(C) The Collectors of Khandesh area, the respondent Nos.4 to 6, be directed to issue caste certificates to the persons of Khandesh area, who came with the documents that they belonging to Koli caste.

2. By all these prayers, the blanket directions are sought for. The person, who is aggrieved of rejection of his social status claim, is certainly having the appropriate remedies and the Forum and Foras are available to him to raise this grievance. What the petitioner is praying by way of the blanket directions, certainly cannot be granted by this Court, that too on the backdrop of judicial pronouncement of the Hon'ble the Apex Court. We may refer to the Judgment of the Constitutional Bench of the Hon'ble the Apex Court in the matter of ***State of Maharashtra Vs. Milind and others reported in (2001) 1 SCC 4.*** It will be useful for all purposes to refer certain observations of the Hon'ble Supreme Court in the said Judgment.

It reads -

5. The High Court allowed the writ petition and quashed the impugned orders inter alia holding that it was permissible to inquire whether any subdivision of a tribe was a part and parcel of the tribe mentioned therein and that “Halba/Halbi” as per Entry 19 in the Scheduled Tribes Order applicable to Maharashtra. Hence the State of Maharashtra has come up in appeal by special leave, questioning the validity and correctness of the order of the High Court allowing the writ petition of Respondent No.1.(emphasis supplied)

33.....The jurisdiction of the High Court would be much more restricted while dealing with the question whether a particular caste or tribe would come within the purview of the notified Presidential Order, considering the language of Articles 341 and 342 of the Constitution.

36. In the light of what is stated above, the following positions emerge:

1. It is not at all permissible to hold any inquiry or let in any evidence to decide or declare that any tribe or tribal community or part of or group within any tribe or tribal community is included in the general name even though it is not specifically mentioned in the entry concerned in the Constitution (Scheduled Tribes) Order, 1950.

2. The Scheduled Tribes Order must be read as it is. It is not even permissible to say that a tribe, sub-tribe, part of or group of any tribe or tribal community is synonymous to the one mentioned in the Scheduled Tribes Order if they are not so specifically mentioned in it.

3. A notification issued under clause (1) of Article 342, specifying Scheduled Tribes, can be amended only by law to be made by Parliament. In other words, any tribe or tribal community or part of or group within any tribe can be included or excluded from the list of Scheduled Tribes issued under clause (1) of Article 342 only by Parliament by law and by no other authority.

4. It is not open to State Governments or courts or tribunals or any other authority to modify, amend or alter the list of Scheduled Tribes specified in the notification issued under clause (1) of Article 342.

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3. Considering all these facts, we are not inclined to entertain the petition. The Petition as such, deserves to be dismissed at the threshold and the same is accordingly dismissed.

(**MANISH PITALE**)
JUDGE

(**PRASANNA B. VARALE**)
JUDGE

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