

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7023 OF 2017

Jayaprakash Balu Koli.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. S. S. Aradhye for the Petitioner.

Mrs. M. P. Thakur, AGP for the Respondent-State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : July 11, 2018.

P. C. :

1. Heard learned counsel for the Petitioner and learned AGP for the Respondent-State. By this petition, the Petitioner has taken exception to the order dated 5th July 2016 passed by Respondent No.2-Caste Scrutiny Committee. By the said order, the caste certificate showing that the Petitioner belongs to the scheduled tribe "Mahadev Koli" is confiscated and the Petitioner was given liberty to apply afresh before the competent authority for issuance of the caste certificate. The Petitioner's caste certificate is confiscated solely on the ground that the same is not in proper format.

2. In terms of the order of the Caste Scrutiny Committee,

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the Petitioner applied to the Tahsildar Mangalweda for issuance of caste certificate. However, by the order dated 17th July 2017, the Petitioner's said application is rejected by the Tahsildar, Mangalweda. By amending the petition, the Petitioner has challenged this order of the Tahsildar too.

3. Having considered submissions of the learned counsel for the respective parties, we do not find any error in the impugned order of Respondent No.2-Caste Scrutiny Committee inasmuch as under the said order the Petitioner's caste certificate showing him to be belonging to Mahadev Koli tribe is confiscated because the said certificate was not in proper format. Nonetheless the Petitioner was given liberty to obtain and apply caste certificate in proper format. There is no prejudice to the Petitioner as this order is not based on merit. In that view of the matter, we are not inclined to entertain the petition.

4. The Petitioner thereafter on 31st March 2017 applied to the Tahsildar, Mangalweda for issuance of the caste certificate. However, said application is rejected on 17th July 2017 on the ground that there is no strong / sufficient evidence about the Petitioner's

claim and secondly that the Petitioner has not given sufficient evidence about his residence / domicile.

5. Be that as it may, the learned counsel for the Petitioner submitted that the Tahsildar Mangalweda is not the competent authority to issue caste certificate under the Act of 2012 and the competent authority is the Sub Divisional Officer, Mangalweda. This fact is not disputed by learned AGP. That apart, Respondent No.2- Caste Scrutiny Committee is authorised to scrutinise the validity of certificate granted by the competent authority. Since the Tahsildar is not the competent authority to issue the caste certificate, without going into merits of the matter, we are of the opinion that the said order cannot be sustained. The petition is accordingly disposed of by passing following order :

:- O R D E R :-

1] The order dated 17th July 2017 passed by the Tahsildar, Mangalweda rejecting the Petitioner's application for issuance of caste certificate is quashed and set aside.

2] In terms of the order of the Caste Scrutiny Committee, the Petitioner is given liberty to apply to the SDO, Mangalweda for issuance of the caste

certificate.

3] If such an application is made by the Petitioner within the period of four weeks from today, the SDO, Mangalweda shall pass appropriate orders thereon within the period of four weeks from the date of receipt of application.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]