

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7441 OF 2014**

Shri Vishram Maya Chuneekar	..Petitioner
Versus	
The State of Maharashtra through its Secretary Tribal Development, Mantralaya, Mumbai and ors.	..Respondents

Mr. P. B. Shah i/b. Mr. Kayval P. Shah, advocate for the petitioner.
Mr. P. G. Sawant, AGP for the State.

**CORAM : RANJIT MORE &
PRAKASH D. NAIK, J J.**

DATE : 30th JANUARY, 2018.

P. C. :

Heard learned counsel and learned AGP appearing for the respective parties. Perused the petition along with the annexures and affidavit-in-reply filed therein.

2. The petitioner claims that he belongs to Hindu Koli Mahadeo schedule tribe and, accordingly, obtained caste certificate to that effect and submitted the same for scrutiny before the respondent No.4-Caste Scrutiny Committee. Earlier twice i.e. 26th November, 2008 and 13th December, 2012, the respondent No.4-Committee invalidated the petitioner's claim that he belonged to Koli Mahadeo tribe.

3. The petitioner filed writ petition No. 1549 of 2013 against the order dated 13th December, 2012, of the respondent No.4-Committee. This petition was partly allowed by the Division Bench of this High Court by its order dated 12th July, 2013, and the matter was remitted to the respondent No.4-Committee. The High Court directed the Caste Scrutiny Committee to re-adjudicate the caste claim of the petitioner by granting an opportunity of hearing and adducing additional evidence to the petitioner.

4. In pursuance of the above order, the respondent No.4-Committee decided to carry re-enquiry in the petitioner's claim and, accordingly, the matter was handed over to Vigilance Cell for re-enquiry. The enquiry officer of the Vigilance Cell conducted enquiry and submitted enquiry report dated 5th October, 2013, to the respondent No.4-Committee along with following documents.

- (i) A copy of letter, issued by Tahsildar, Tala, dated 16/09/2013, wherein he has furnished information **regarding Birth/Death entry in respect of petitioner's paternal relative, which is found in different ink.**
- (ii) Three colour xerox copies of Birth/Death Register.
- (iii) A copy of school admission general register extract in respect

of petitioner's paternal side relatives where in the information is given as follows;

Sr. No.	Reg.No./ Book No.	Name of the pupil	Caste/ sub caste	Date of birth	Date of admin	Relation with petitioner	Remark
1	11/1 Book	Maya Padya Chunekar	Hindu Koli Mahadeo	1/1/27	5/6/39	Father	In Caste/sub caste column the word Mahadeo is written in different handwriting and different ink.
2	34/1	Nagu Padya Chunekar	Hindu Koli	26/3/33	1/7/41	Real uncle	-
3	57/1	Changubai Padya Chunekar	Hindu Koli	8/3/36	20/9/43	Real aunt	-
4	87/2	Laxman Jaya Chunekar	Hindu Mahadeo Koli	1/6/50	30/6/56	Cousin brother	In Caste/sub caste column the word Mahadeo written in different handwriting and different ink.
5	109/2	Mathura Rama Chunekar	Hindu Mahadeo Koli	1/6/51	-	Cousin sister	
6	138/2	Krushna Jaya Chunekar	Hindu Mahadeo Koli	138/2	4/8/59	Cousin brother	
7	204/2	Rajubai Rama Chunekar	Hindu Koli	1/6/55	5/7/61	Cousin sister	
8	208/2	Pandu Jaya Chunekar	Mahadeo Koli	1/6/55	6/7/61	Cousin brother	In Caste/sub caste column the word Mahadeo written in different ink.
9	280/2	Keshav Rama Chunekar	Hindu Mahadeo Koli	1/6/56	-	Cousin brother	-
10	384/2	Janabai Jaya Chunekar	Hindu Koli	15/9/59	10/6/66	Cousin sister	--

(iv) The remark of the Research Officer attached to the Vigilance Cell is that the petitioner's paternal relative's school record is found in different ink.

5. Since the report of the Vigilance Cell is adverse to the interest of the petitioner, the petitioner was asked to submit explanation to the enquiry report by a letter dated 25th October, 2013. On 16th November, 2013, the petitioner requested the Committee for granting 15 days additional time to submit his explanation to the Vigilance Cell report. The petitioner was called upon by the respondent No.4-Committee for personal hearing on 2nd December, 2013. The petitioner along with his three brothers and niece remained present for personal hearing on 2nd December, 2013. The petitioner also submitted his written explanation to Vigilance Cell report. After hearing the petitioner, the respondent No.4 again invalidated the petitioner's claim that he belonged to Koli Mahadeo tribe. This order is challenged by filing the present petition.

6. Before the respondent No.4-Committee, the petitioner heavily relied upon the extract in Death and Birth register of his three cousin brothers, father and sister. The enquiry officer, Vigilance Cell, made

enquiry of these extracts at Tahsildar Office at Tala, District-Raigad, and also made scrutiny thereof. The enquiry of the Vigilance Cell revealed that the word "Mahadeo" in the extracts of these persons has been added subsequently inasmuch as the ink and handwriting of the said word differ from the words "Hindu Koli". The respondent No.4-Committee also independently made scrutiny and verified these extracts and came to the conclusion that the word "Mahadeo" has been written in different handwriting and different ink. We have also seen these extracts and we concur with the opinion of the respondent No.4-Committee. Thus, in our opinion, the caste of the said five persons was initially shown as "Koli" and at later stage, the record was interpolated by adding the word "Mahadeo" and this was done only to claim the benefits attached to "Koli Mahadeo" caste.

7. Mr. Shah, learned counsel for the petitioner, vehemently argued that the respondent No.4-Committee after remand of the matter by the High Court, did not grant an opportunity of hearing to him. This submission is devoid of any merit as the impugned order itself reveals that the petitioner attended the hearing along with his three brothers and niece and also submitted explanation to the fresh report of the Vigilance Cell. Mr. Shah also stated that it was not necessary to call for fresh vigilance report. We, however, do not agree with the submission

inasmuch the report was called in the teeth of the High Court directing re-adjudication of the petitioner's claim that he belongs to "Koli Mahadeo" tribe.

8. Taking totality of the facts and circumstances of the case into consideration, we find that the petitioner's claim that he belongs to Koli Mahadeo caste is rightly rejected and we find no reason to interfere with the impugned order passed by the respondent No.4-Committee in exercise of jurisdiction conferred upon this Court under Article 226 of the Constitution of India. The petition, accordingly, stands dismissed.

[PRAKASH D. NAIK, J.]

[RANJIT MORE, J.]