

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

WRIT PETITION NO. 6070 OF 2013

Mr. Yellappa Maruti Shirage
Age about 49 Years, Occupation
Service, residing at Kamewadi,
Taluka Chandgad, Dist.Kolhapur.

... Petitioner

V E R S U S

1. The State of Maharashtra
through its Secretary,
Tribal Development & Social Justice
& Special Assistance Department,
Mantralaya, Mumbai – 400 032.
2. Scheduled Tribe Caste Validity
Verification Committee, through
its Deputy Director alias Member/
Secretary, Caste Scrutiny Committee,
Queens Garden, Pune – 28.
3. Tahsildar, Chandgad
District Kolhapur.
4. Taluka Agricultural Officer, Chandgad
District Kolhapur.

... Respondents

Mr. Dushyant S. Pagare for Petitioner.

Mr. V. S. Gokhale, AGP - 'B' Panel Counsel for Respondent – State.

**CORAM : SHANTANU KEMKAR AND
NITIN W. SAMBRE, JJ.**

DATE : JULY 4, 2018.

P.C. [PER : NITIN W. SAMBRE, J.]

ORDER

. The Respondent No. 2 – Scheduled Tribe Caste Validity Verification Committee (for short, 'the Scrutiny Committee') vide impugned order dated 14th May 2013 invalidated the tribe claim. As such, this Petition.

2. The Petitioner claims to be belonging to 'Koli Mahadev Scheduled Tribe'.

3. The Respondent No.3, in whose employment the Petitioner is from last more than 30 years referred the tribe claim for verification. The Petitioner in support of his tribe claim, claimed to have produced substantial piece of evidence along with an Application dated 8th February, 2011 demonstrating that his blood relations are belonging to 'Koli

Mahadev Scheduled Tribe'. According to him, some of his relations whose tribe entries are relied on are prior to independence era which were not taken into account by the Respondent No.2 – Scrutiny Committee. The Petitioner would rely upon the explanation tendered by him to the Vigilance Cell Report served on him by Scheduled Tribe Certificate Scrutiny Committee, Pune, wherein he has given family-tree. According to him, the Scrutiny Committee in ignorance of said family-tree and pre-independence era document, has negated his tribe claim.

4. *Per contra*, the learned AGP would support the order dated 14th May 2013. The learned AGP submits that Respondent No.2 – Scrutiny Committee having noticed that the documents which were placed on record are not supporting the claim of the Petitioner and he has also not satisfied affinity test, rejected the claim. As such, no interference is warranted in the order impugned and the Petition is liable to be dismissed.

5. Considered rival submissions.

6. The Petitioner had an occasion to approach this Court in an

earlier round of litigation in Writ Petition No. 3546 of 2012, wherein his validation proposal was directed to be decided expeditiously.

7. The Petitioner thereafter submitted in all seven documents with a covering letter dated 8th February 2011 which could be noticed at Annexure – 'G' to the Petition. In the said document it is claimed by the Petitioner that the birth extract in regard to his grand-father Yellappa Chudappa Shetyappa Shiragi noted on 2nd October 1912, so also similar entries as regards Apayya Nagappa Shetyappa Shiragi and Maruti Yellappa Shiragi his blood relation could be noticed of pre-independence era as belonging to 'Koli Mahadev'. So far as these documents are concerned, Respondent No.2 – Scrutiny Committee has referred few of the aforesaid documents which were belonging to the father and other relatives in para no.3 of the order impugned. The birth extract in regard to the grand-father of the Petitioner i.e. Yellappa Chudappa Shetyappa Shiragi, who is shown to have been born on 2nd October 1912 is not dealt with by the Scrutiny Committee in its order, impugned herein.

8. The perusal of the Vigilance Cell Report which was served on the Petitioner though had found entry as 'Hindu Koli Mahadev', however,

the pre-independence era entry speaks that the blood relations of the Petitioner as belonging to 'Koli Mahadev'.

9. In the aforesaid background, what is noticed is the Respondent No.2 – Scrutiny Committee has failed to consider the said entries which are pre-independence era in its correct perspective. The Scrutiny Committee in vague manner has recorded a finding that there are entry of 'Koli' in the school record without specifying such document which persuade it to reach to conclusion of rejection of tribe claim. The Respondent No.2 – Scrutiny Committee, *prima facie*, appears to be relied upon the affinity test for rejecting claim.

10. The issue *qua* the rejection of claim for the verification of Scrutiny Committee based on the affinity test only, if appreciated, the Scrutiny Committee is not entitled to reject the claim on an isolated ground of not qualifying the affinity test. In the present case, the documentary record *qua* the claim put-forth by the Petitioner speaks of he belonging to 'Koli Mahadev', which is independently required to be appreciated and dealt with by the Scrutiny Committee.

11. In that view of the matter, the impugned order dated 14th May 2013 passed by the Respondent No.2- Scrutiny Committee is not sustainable and is hereby quashed and set-aside.

12. The claim of the Petitioner as belonging to 'Koli Mahadev Scheduled Tribe' for issuance of validity certificate is restored back to the Scheduled Tribe Certificate Scrutiny Committee, Pune Region, Pune.

13. The Petitioner shall appear before the Scrutiny Committee on 6th August 2018 along with his entire documentary evidence and written notes. As such, notice to the Petitioner is dispensed with.

14. Considering the fact that, the Petitioner is nearing his superannuation, the Scrutiny Committee is directed to decide the tribe claim of the Petitioner as expeditiously as possible, in any case not beyond the period of four months from the date of first appearance of the Petitioner.

15. Writ Petition stands disposed of accordingly.

(NITIN W. SAMBRE, J.)

(SHANTANU KEMKAR, J.)