

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9486 OF 2015

Sidram Nilappa Koli ... Petitioner

Versus

State of Maharashtra & Ors. ... Respondents

Mr. R. K. Mendadkar for Petitioner.

Mr. M. M. Pabale, AGP for Respondent Nos. 1 and 2.

Mr. S. S. Pakale a/w Mr. Pradeep Patil for Respondent No.5.

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

DATE : JUNE 14, 2018

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

. On 13th December 1979 concerned Tahsildar issued Caste Certificate in favour of the Petitioner certifying that he belongs to Koli Mahadev Scheduled Tribe. Said certificate was found to be a basis for securing employment by the present Petitioner with the Respondent No.3 – Municipal Corporation.

2. The Caste Certificate was forwarded by the Respondent No.3 – Municipal Corporation/Employer to the Respondent No.2 – Committee for the purpose of verification. Vide impugned order dated August 7, 2015 the Respondent No.2 – Scheduled Tribe Caste Certificate Scrutiny Committee negated the claim of the Petitioner as belonging to Koli Mahadev Scheduled Tribe and cancelled and confiscated the Caste Certificate. Hence, this Writ Petition by the Petitioner – employee.

3. Heard Shri Mendadkar, the learned Counsel for the Petitioner. The learned Counsel would urge that the Respondent No.2 – Committee has failed to appreciate the documents of Chandrashekhar Anappa Koli, who is nephew of the Petitioner, wherein his caste is certified as belonging to Mahadev Koli on the date of his admission to the school i.e. June 9, 1997. According to the learned Counsel, the affinity test clearly establishes the claim of the Petitioner as belonging to Koli Mahadev Scheduled Tribe which is overlooked by the Respondent No.2 – Committee.

4. The learned Counsel then would urge the Petitioner having retired from the services of Respondent No.3 – Municipal Corporation, is entitled to retirement benefits which is required to be directed to be paid to the present Petitioner, at this stage. In alternate, a submission is

made by the learned Counsel that the matter be remanded back to the Respondent No.2 – Committee for consideration afresh.

5. *Per contra*, the learned AGP would support the order of the Respondent No. 2 – Committee based on the material from the original record produced before this Court. He submits that there is neither documentary evidence nor affinity is proved by the Petitioner in support of his tribe claim. According to him, this Court should dismiss the Petition with costs.

6. Considered the rival submissions.

7. Pursuant to the order of this Court in Writ Petition No. 4443 of 2013 decided on March 6, 2014, Respondent No.2 – Committee heard the Petitioner on the issue of his explanation to the Vigilance Cell Report which is served on him and also on the issue of explanation tendered by him. The Committee also granted the Petitioner appropriate accommodation as regards adjournment sought by his Counsel.

8. The order impugned depicts that the 1965 entry of the Petitioner is certified to be belonging to Hindu Koli from the school record. The other documents of the year 1975 of his brother and nephew in clear terms demonstrate that the Petitioner belongs to Hindu Koli and not Koli

Mahadev Scheduled Tribe. Though a reliance is sought to be placed on the entry of nephew of the Petitioner in the school record namely, Chandrashekhar Anappa Koli, the said entry is rightly discarded by the Respondent No.2 – Committee, as there is neither any explanation from the Petitioner nor his brother as to how the caste of the nephew could be entered as Mahadev Koli, when the caste of his father is shown to be Hindu Koli. Apart from above, there is not a single document of pre-independence era demonstrating that Petitioner belongs to Koli Mahadev Scheduled Tribe.

9. From the record, it could be inferred that the Petitioner was given sufficient opportunity of hearing and the order of the Committee deals with all facet of the matter which were raised by the Petitioner. Neither any denial of opportunities nor any illegality could be noticed in the order impugned.

10. Even the Petitioner was unable to establish the affinity with Koli Mahadev Scheduled Tribe.

11. That being so, there is hardly any ground which warrants interference in extraordinary jurisdiction in the order impugned passed by the Respondent No.2 – Committee.

12. For the reasons stated above, the Writ Petition fails. Hence, the same stands dismissed.

(NITIN W. SAMBRE, J.)

(SHANTANU KEMKAR, J.)