

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 391 OF 2017

(Sandip s/o Namdeo Kolhe vs. The Scheduled Tribes Caste Scrutiny Committee thr. its Secretary,
Amravati & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
M.G. GIRATKAR, JJ.
SEPTEMBER 18, 2018.**

Heard Shri R.S. Parsodkar, learned counsel for the petitioner, Mrs. H.N. Prabhu, learned AGP for respondent No. 1 and Shri S.S. Ghate, learned counsel for respondent Nos. 2 & 3.

2. After hearing the respective counsel, we find that respondent No. 1 – Committee has not appropriately attempted to resolve the relevant questions of facts.

3. The learned AGP is right in submitting that basic burden is upon the petitioner to establish his caste claim. However, here the petitioner has on affidavit claimed relationship with one Parasram. He claims that Parasram is his great grand father. The document shows that caste of Parasram is recorded as 'Gond' on 22.07.1936 and 06.03.1938 respectively. There are other old documents in which caste has been recorded as 'Gond' only. These documents are not accepted because of 'Koli' documents found by the Vigilance Cell.

4. The petitioner does not dispute relationship with persons whose caste is found to be recorded as *Koli*. The petitioner submits that they resided in a village where majority is of '*Koli*' community and hence the caste may have been recorded as '*Koli*'. However, the impugned order shows that the persons have given caste as '*Koli*' on affidavit.

5. The petitioner has also relied upon validity given to one Ratnakala Kailas Kolhe on 30.07.2008 as '*Gond – Scheduled Tribe*'. The claim of the petitioner that Parasram is his great grand father is disbelieved because the document does not show surname and other details of Parasram. Similarly, validity is ignored because name of Ratnakala does not figure in family tree.

6. The '*Koli*' entries are comparatively later in point of time. The Committee could have through Vigilance Cell obtained family tree of the so called '*Koli*' relatives and exposed incorrectness in the story of the petitioner. The petitioner could have submitted family tree associating the '*Koli*' relatives with Parasram.

7. Considering the old documents and entries of '*Gond*' appearing therein, we are inclined to grant the petitioner one opportunity to lead proper evidence or to produce necessary documents to bring on record his relationship with Ratnakala and Parasram.

8. Only to facilitate this exercise, we quash and set aside the order dated 01.12.2016 and restore the matter back to the file of respondent No. 1. The petitioner to appear before respondent No. 1 – Committee on 15.10.2018 and to abide by his further instructions in the matter. The Committee shall attempt to complete the exercise as per law within next eight months.

9. Writ Petition is thus partly allowed and disposed of. However, there shall be no order as to costs.

JUDGE

*GS.

JUDGE

Gopichand
Tanwarram
Shamdasani

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