

vdk

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1432 OF 2017
with
CIVIL APPLICATION NO. 6998 of 2019

Sumeet Anand Sapkale
Age : 25 years, Occu. Advocate,
R/o Plot No. 30, Dhande Nagar,
Jalgaon, Tq. & Dist. Jalgaon ...Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32
2. The Scheduled Tribe Scrutiny
Committee, Nandurbar Division,
Nandurbar
3. The Divisional Head Client relations
(P.S.B and R.R.B.S.), Institute of
Banking Personnel Selection, Mumbai ...Respondents

Mr. S. R. Barlinge, Advocate for petitioner – applicant
Mr. G. O Wattamwar, AGP for respondents/State
Mr. M. C. Ghode, Advocate h/f Mr. P. K. Joshi, Advocate for
respondent no. 3
Mr. S. V. Natu, Advocate for respondent no. 4 in
civil application

**[CORAM : SUNIL P. DESHMUKH AND
S. M. GAVHANE, JJ.]**

DATE : 3rd October, 2019

ORAL JUDGMENT (PER - SUNIL P. DESHMUKH, J) :

1. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel appearing for the parties.

2. Succinctly stated, petitioner claims origin to Sampat as shown in genealogy at page 39 - the part of affidavit of father of petitioner. Learned counsel for petitioner refers to that while Sampat had two sons namely Fattu and Tanaji, the lineal descendants of Fattu i.e. Prakash, Umakant, Jyoti and Swati have received caste validity certificates. He further adverts to that one of the descendants from branch of Tanaji, namely, Rajesh, son of Damodar is recipient of certificate of tribe pursuant to order passed by the Additional Commissioner, Nashik division, Nashik in 1995. He states that petitioner happens to be descendant of another branch originating lineally from Tanaji and had applied for tribe certificate for "*Tokre Koli* " scheduled tribe. He further draws our attention to that while in impugned order there is neither reference to this genealogical order of descendants nor there

is any reference to tribe validity certificate issued to Prakash, Umakant, Jyoti and Swati. He states that the documents before the committee which had not depicted that petitioner or his relatives are "*Tokre Koli*", had been considered and rest of the documents major in number than aforesaid documents, depicting that petitioner or his relatives as "*Tokre Koli*", have been absolutely ignored.

3. Learned counsel for petitioner Mr. Barlinge, during the course of submission stated, as a matter of fact, revenue record shows that land had been granted to father of petitioner pursuant to provisions of section 36A of the Maharashtra Land Revenue Code, 1966 and contends that while section 36A of the Maharashtra Land Revenue Code, 1966 specifically deals with the allotment of land to persons belonging to Scheduled Tribe, this circumstance as well substantiates the claim of petitioner to be belonging to scheduled tribe. Even the revenue record bears that same and would be analogical to claim of petitioner. These aspects deserve to be considered and appreciated.

4. Learned Assistant Government Pleader submits that relevant documents have been referred to and have been

properly appreciated including vigilance record. He further adverts to that documents on which petition has been preferred, had not been forming part of the record before the committee.

5. Learned counsel for petitioner submits with vehemence that those documents have been placed on record before the committee. However, order is short of depicting the same.

6. In the circumstances, the situation emerges that petitioner appears to be in possession of record which according to learned counsel for petitioner would have bearing on the consideration of tribe claim of petitioner before committee and same may have to be considered and appreciated by the committee.

7. Circumstances warrant the petitioner deserves an opportunity before the committee for consideration of his tribe claim as belonging to "*Tokre Koli*" scheduled tribe.

8. In view of aforesaid, impugned order dated 19th November, 2016 passed by respondent no. 2 – Committee is set aside. Claim of the petitioner for consideration by committee is restored. Petitioner may lead evidence before

the committee for consideration of the tribe claim of petitioner.

9. Writ petition is accordingly disposed of with aforesaid observations. Rule is made absolute.

10. In view of disposal of present writ petition, civil application no. 6998 of 2019 also stands disposed of.

[S. M. GAVHANE]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE