

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 3443 OF 2019

Bhagwan s/o Tukaram Ingale

Petitioner

Versus

The State of Maharashtra
& others

Respondents

Mr. A.D. Aghav, advocate for petitioner.

Mrs. V.S. Chaudhary, AGP for respondents no. 1 to 3.

CORAM : PRASANNA B. VARALE AND

NITIN W. SAMBRE, JJ.

DATE : 12th March, 2019.

P.C. :

Heard learned counsel for petitioner and learned AGP for respondents no. 1 to 3.

2. Petitioner has questioned the order dated December 4, 2018, passed by respondent no. 2 - The Scheduled Tribe Certificate Scrutiny Committee, Aurangabad, whereby the tribe claim of the present petitioner as belonging to Koli (Malhar) Scheduled Tribe came to be rejected.

3. The case of the petitioner is, he contested elections of Nagar Panchayat, Soygaon, from a seat reserved for Scheduled Tribe category and as such, was required to get his tribe certificate verified.

4. According to him, the claim was referred to the Committee

and the Committee, without considering the genuineness of the documents, old entires que tribe of petitioner in the documents, has invalidated the claim. According to him, even the Vigilance Cell report and the affinity test is incorrectly appreciated and that being so, the matter needs to be remanded, if not allowed by this Court.

5. It is also claimed by learned counsel for the petitioner that the Committee negated the claim of the petitioner contrary to the scheme laid down by the Hon'ble Apex Court in the case of Madhuri Patil.

6. Per contra, learned AGP supported the order impugned dated December 4, 2018 and submits that the Committee has offered reasonable opportunity of being heard to the petitioner, considered all documentary evidence including the old tribe entries, explanation of petitioner to the Vigilance Cell report and, has rightly negated the claim. Learned AGP submits that the petition is liable to be dismissed.

7. Petitioner alongwith his tribe claim which was forwarded to the Committee through the Sub-Divisional Officer, Sillod, on September 15, 2016, submitted his tribe certificate as belonging to Koli (Malhar) issued on July 4, 2016. Alongwith the said proposal, the petitioner has placed on record affidavit stating that his ancestors and he himself is an uneducated person, tribe validity in favour of one of his cousin namely Banabai Fkira issued on July 30, 2009, and affidavit of said Banabai etc. Amongst other oldest documents, which the petitioner has produced, is the Khasara

Pahani Patrak issued in favour of his father Tukaram in the year 1955-1956, Khasara Pahani Patrak (Revenue Entry) issued in favour of his grand father Jivram Vithoba of the year 1954, Shetsara Vasooli (Revenue Recovery)entry in favour of his father of the year 1958, revenue entry of 1953 in favour of his great grand father etc.

8. Vigilance Cell submitted its report on September 19, 2018, after visiting the native place of the petitioner and also the school in the village of the petitioner. Vigilance Cell has collected various entries in regard to brothers of the petitioner. Vitthal, brother of petitioner, was admitted in school against entry no. 283, book no. 2, his cousin Shankar was admitted vide entry no. 666/1299, book no. 5. Brothers of petitioner, Govind and Prabhakar were admitted in school vide entry nos. 389/10301 and 901 respectively so also cousins of petitioner by name Baliram, Ashok and Ramesh were admitted in school vide entry nos. 902 Book no. 5, 409 Book no. 4 and 1600 respectively. All these entries speak of entry of caste as 'Koli'. The Vigilance Cell also enquired with the other villagers who are related with the petitioner and their caste entries as reflected from the school admission record were also taken into account.

9. The Committee then proceeded to evaluate the documents which were placed on record and noticed that the oldest documentary entries of Vitthal, Govinda, Prabhakar and the entries of cousin brothers Ashok, Shankar, Baliram and Ramesh are between the period 1960 - 1976 which speak about the caste as 'Koli'. The Committee then proceeded to consider said entries with the entries of other relations in the village and proceeded to negate

the claim of petitioner. The Committee, in categorical terms, recorded specific reasons for rejecting the old entries which are relied upon by the petitioner as such, the petitioner is unable to explain the alleged contradictions / deformities in the entries which were noticed in the school register.

10. The Committee also appreciated the traits, customs and traditions which are followed in Koli (Malhar) Scheduled Tribe and that of in the family of petitioner and noticed that petitioner is practicing such traits, customs and traditions which could be recognised in the Koli community, which is notified as Special Backward Class and, proceeded to negate the claim.

11. In the aforesaid background, this Court hardly noticed any illegality or material irregularity which prompts interference under extra ordinary jurisdiction so as to cause interference in the order impugned negating the Scheduled Tribe claim of the petitioner. That being so, the petition stands dismissed.

NITIN W. SAMBRE
JUDGE

PRASANNA B. VARALE
JUDGE

dyb