

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1334 OF 2019

**MANOJKUMAR VITTHAL KORTEKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. V.U.Jadhav, Advocate for the petitioner
Mr. K.N.Lokhande, AGP for the respondent/State.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 31.01.2019

P.C. :-

1. Heard learned counsel for the petitioner.
2. It is submitted by the learned counsel for the petitioner that the petitioner was selected and appointed as a Welder by following due procedure. The copy of the appointment order is placed on record at Exh.'A'. The petitioner was appointed on a post made available for the reserve category candidates. The petitioner belongs to 'Koli Mahadev' Scheduled Tribe category. A caste certificate issued by the Sub Divisional Magistrate dated 20.11.2015 is placed on record at Exh.'C'. The said certificate was forwarded to the Scrutiny Committee through the Principal of Government Polytechnic College on 20.07.2013. A certificate was issued in favour of the petitioner on 21.08.1992 through the Executive Magistrate, Bhoom. In the earlier ground of validation the Security Committee passed an order of confiscated of the certificate dated 21.08.1992.

3. Being aggrieved by the said order the petitioner had approached this Court by filing Writ Petition No.8662 of 2014 in bunch of petitions, namely, Writ Petition No.8013 of 2014, Writ Petition No. 8662 of 2014 (referred by the petitioner). The Division Bench of this Court by order dated 21.11.2014 while disposing the petitions permitted the petitioners to approach Scrutiny Committee for issuance of photostat copy of the caste/tribe certificate produced by them for verification within stipulated period. Then the petitioners were permitted to approach the Sub Divisional Officer/Competent Authority on receipt of photostat copies of the caste/tribe certificate with an application for issuance of caste/ tribe certificate within a stipulated period and then the Sub Divisional Officer/Competent Authority was directed to issue caste/tribe certificate in prescribed proforma certifying that respective petitioners belong to Koli Mahadev Scheduled Tribe.

4. Learned counsel for the petitioner then submits that the Sub Divisional officer again while issuing certificate on 20.11.2015 referred to the social status of petitioner as 'Koli Mahadeo'. The Scrutiny Committee with the observations that there is a difference in the spelling and the petitioner has submitted a certificate bearing 'Koli Mahadeo' instead of 'Koli Mahadev', on this ground the Scrutiny Committee cancelled the certificate and permitted the petitioner to approach the Competent Authority for issuance of fresh certificate subject to his further scrutiny on merits. The

petitioner came to know the order passed by the Committee dated 29.03.2017 on 22.11.2018. It is also submitted that the copy of the order dated 29.03.2017 passed by the Scrutiny Committee was not supplied to the petitioner, as such the petitioner submitted an application with a request of copy of the order. Learned counsel submits that in view of the decision of the Committee respondent No.4 may initiate an adverse action against the petitioner and the petitioner apprehends that the petitioner may face the consequences of an action in the the nature of termination of his services. It is also submitted by learned counsel for the petitioner that in view of the order of the Committee the petitioner is ready to approach the Competent Authority for issuance of fresh certificate. The petitioner may immediately submit such an application to the Competent Authority. Learned counsel on the apprehension prayed for protection of his service. As the submissions are made on the backdrop of documents placed on record particularly the order of this Court in earlier round of litigation, we see no reason not to accept the submission.

5. Resultantly, the petition is partly allowed. The petitioner is permitted to approach respondent No.3 with an application for issuance of fresh certificate within two weeks. If such an application is submitted to respondent No.3 within stipulated period respondent No.3 on verification of the application on merits issue certificate to the petitioner that the petitioner belongs to 'Koli Mahadev' Scheduled Tribe within six

weeks and on receipt of such certificate by respondent No.3 the petitioner is permitted to approach respondent No.2-Committee for validation and on receiving the claim for validation, the Scheduled Tribe Certificate Scrutiny Committee to take appropriate decision within 12 weeks till the exercise of the validation is not complete, respondent No.4 is directed not to take any coercive steps against the petitioner prejudicing the service career of the petitioner.

6. We also direct respondent No.3- the Sub Divisional Magistrate, Bhoom not to undertake exercise of fresh enquiry in the matter while considering the application of petitioner for issuance of fresh certificate.

7. With the above directions the writ petition is disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]