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

WRIT PETITION NO. 4428 OF 2019

Bharat S/o Damu Shirsat
Age : 52 years, Occu. Service
As Assistant Sub-Inspector
of Police, Railway Police,
Bhusawal,
R/o Nalkheda, Taluka Amalner
District Jalgaon

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary
Tribal Development Deptt.,
Mantralaya, Mumbai-32
2. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar
Region, Nandurbar,
through its Member Secretary
3. The Deputy Superintendent of Police,
Railway Police, Bhusawal,
District Jalgaon

..RESPONDENTS

Mr S. R. Barlinge, Advocate for Petitioner;
Mrs G. L. Deshpande, A.G.P. for respondents

**CORAM : PRASANNA B. VARALE
AND
NITIN W. SAMBRE, JJ.**

DATE : 25th April, 2019

ORAL ORDER:

The petitioner, claiming to be belonging to "Tokre Koli" Scheduled Tribe approached the respondent - Scheduled Tribe Certificate Scrutiny Committee, Nandurbar for getting his tribe claim validated.

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2. The respondent - Committee, by impugned order dated 7th February, 2019 has invalidated the tribe claim of the petitioner. As such, this petition.

3. Mr Barlinge, learned Counsel for the petitioner submits that the respondent - Committee has failed to appreciate the evidence which is placed on record in the form of documentary evidence, such as, the judgment delivered by the Division Bench of this Court in Writ Petition No.3081 of 2006, passed in the case of Sahebrao Kautik Saindane on 28th July, 2006, the validation certificate issued in favour of the said petitioner Sahebrao pursuant to the said judgment, an affidavit sworn by Sahebrao Kautik Saindane in favour of the petitioner, thereby demonstrating that the petitioner is in his blood relation. The another affidavit sworn by the petitioner demonstrating that said Sahebrao is his blood relative, the affidavit sworn by one Tukaram Devram Shirsath, claiming to be uncle of the petitioner, who claims to be holding validity in his favour.

4. The next submission of Mr Barlinge is, that the respondent - Committee has considered only such piece of evidence, which is adverse to the interest of the petitioner and the other documents which are produced by him are not evaluated. He then would urge that there is no appropriate opportunity of hearing was extended to the petitioner while deciding the claim, as such, according to him, either the order passed by Committee needs to be quashed and set aside by directing issuance of validity

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certificate or else the matter needs to be remanded.

5. Learned Asstt. Govt. Pleader appearing for respondents would support the order of the Committee and invite attention of this Court to the evidence which prevailed before the Committee for passing impugned order of invalidation. According to learned Asstt. Govt. Pleader, the view expressed by the Committee is a possible view and that being so, this Court should be very slow in interfering in extra-ordinary jurisdiction.

6. Having considered the rival submissions, what is required to be appreciated is, though the petitioner has relied upon the tribe validity awarded by the Committee in favour of Sahebrao Kautik Saindane, based on the Division Bench Judgment of this Court, passed in Writ Petition No.3081 of 2006, so also the affidavit of one Tukaram Devram Shirsath, the petitioner has failed to demonstrate before the Committee, how the said validity holders are in his blood relation. The family tree, which is produced before the Committee by the petitioner, as could be noticed at page 53 of the petition (internal page 7 of the order impugned) does not speak of any blood relation of the petitioner with such validity holders other than affidavit of petitioner and validity holder no material is placed on record to justify the said contention.

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7. That being so, there is no material on record to infer that these validity holders are having blood relation with the petitioner.

8. Apart from above, the Committee was assisted by the Vigilance Cell while deciding the caste claim of the petitioner and it was brought on record from the Vigilance Cell that "1929-Gaon Namuna" entry of the father of the petitioner - Uttam Shamji Ganpat Koli is shown to be "Koli" and not "Tokare Koli". Similarly, the brother of the petitioner, namely, Hilal Damu Shirsath also entered his caste as 'Hindu Koli' in the school admission register on 15th June 1963. The petitioner himself has entered caste as 'Hindu Suryawanshi Koli' in the school admission register on 1st June 1973. There is consistent record since 1929 of the father of the petitioner, the brother and the petitioner himself, which speaks that the petitioner is belonging to 'Koli' and not 'Tokare Koli' as is claimed in the petition.

9. Though Mr Barlinge tried to impress upon us by submitting that in good old days, the practice of entering sub-caste of main caste was not practiced, however, he is unable to demonstrate the same by substantiating the said contention based on any documentary evidence or other material.

10. Apart from above, provisions of Section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes, Vimukta Jatis, Nomadic Tribes, Other Backward Classes and Special Backward Category

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(Regulation of Issuance and Verification of *Caste Certificate*) Act, 2000 cast burden on the petitioner to prove his tribe claim, which admittedly the petitioner has not discharged.

11. The Committee has offered appropriate opportunity of hearing to the petitioner and considered the pre-independence era documents having adverse entry and proceeded to reject the claim for verification.

12. In that view of the matter, we hardly see any reason to cause interference in the order impugned. The Writ Petition, as such, fails and same is dismissed accordingly.

(NITIN W. SAMBRE, J.)

(PRASANNA B. VARALE, J.)

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