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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5141 OF 2014

Dattatraya Rajendra Pandhare
age 26 years, Occu. Service,
R/o At Post Yellori, Post Korangala
Tq. Ausa, District Latur

...PETITIONER

VERSUS

1. The State of Maharashtra
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai
2. The Scheduled Tribe, Caste
Certificate Scrutiny Committee,
Aurangabad Division, Aurangabad
3. The Collector, Latur.
4. Deputy Collector, Latur
5. Sub-Divisional Officer,
Division II, Solapur,
District Solapur

...RESPONDENTS

...
Shri A.S. Bayas, Advocate for petitioner
Shri A.V. Deshmukh, A.G.P. for State
...

**CORAM : SUNIL P. DESHMUKH &
R.G. AVACHAT, JJ.**

DATE : 30th April, 2019.

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

1. Heard. Rule. Rule made returnable forthwith and

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heard finally with the consent of learned counsel for the appearing parties.

2. The petitioner says that he comes from a tribal community, referred to as *Koli Mahadev*, a Scheduled Tribe as appearing in the Presidential Order including amendment in 1976 at Sr.No.29. The petitioner has been issued a certificate by competent authority, referring to his tribe as *Mahadev Koli* instead of *Koli Mahadev*, presumably for the reason that the State Government has issued a resolution to that effect. It has also been referred to by learned counsel for the petitioner that tribe claims of real brothers and sister and cousins have been validated by the Scrutiny Committee.

3. While the petitioner has been selected for appointment on the post of Talathi from the category of Scheduled Tribe, the caste certificate issued by the competent authority had been referred to for scrutiny of the tribe to committee. It is being claimed that, without affording any opportunity to the petitioner, the Scrutiny Committee went on cancelling the tribe certificate by order dated 30.4.2014 *albeit* keeping the merits of the case open and giving opportunity to the petitioner to apply afresh for a proper certificate.

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4. Apprehending adverse action in view of cancellation of tribe certificate, the petitioner has approached this court and the court has protected interest of the petitioner in employment by observing that, no coercive action be taken against the petitioner on the ground of cancellation of his tribe certificate.

4. Learned counsel for the petitioner refers to a decision of Division Bench of this Court in the case of *Prakash s/o Subhash Bhople Vs. Deputy Collector (General), Latur and others*, reported in [2015 (4) Mh.L.J. 890], wherein, in similar circumstances, following observations have been made :

“17. A reference is also made to the Government Resolution issued by the Tribal Development Department bearing No.CBC1684/(309)/KA/11 dated 24.4.1985 and annexure thereto. The annexure records details of the Scheduled Tribes and its sub-tribes and other similar tribes which are likely to take benefits available to the tribes recorded in the schedule on the basis of similarity in the nomenclature. So far as tribe 'Koli Mahadev' is concerned, it is recorded at Sr.No.23 in the annexure and it is further recorded in the schedule, that “Mahadeo Koli” is one amongst the scheduled tribes in the State of Maharashtra mainly located in hilly areas of the State. The population figures of the said tribe, as per 1971 census was 3,39,855. It is recorded in column No.4 that other tribes and castes such as 'Koli', Suryawanshi Koli, Sonkoli and Christian Koli are the castes likely to take

benefits on the ground of similarity in the nomenclature. The tribe 'Koli Mahadev' which is recorded at Sr.No.29 in the Schedule is referred to as "Mahadeo Koli" in the Government Resolution and annexure thereto. As has been stated earlier, it is a fact that all the while till this date, thousands of certificates have been issued in favour of persons belonging to 'Koli Mahadev' category referring to their tribe as 'Mahadev Koli' and such certificates have been validated by the respective Scrutiny Committees and orders have been issued in favour of thousands of applicants. Neither the Scrutiny Committees nor the High Court, considering the matters, objected to reference of the tribe as 'Mahadev Koli' instead of 'Koli Mahadev'. As has been recorded earlier, it is an admitted position that there is no separate tribe or caste in the State of Maharashtra as 'Mahadev Koli'.

18. For the reasons recorded above, view taken by the Scrutiny Committee deserves to be upheld. However, in the facts and circumstances, we proceed to issue certain directions in addition to the directions issued by the Scrutiny Committee.

(a) The petitioners, in these petitions, may approach the concerned Scrutiny Committees for issuance of photostat copy of the caste/ tribe certificate produced by them for verification, within a period of four months from today. The Scrutiny Committee, on receipt of such applications, issue attested/ authenticated copy of the caste/ tribe

certificate produced by respective petitioners for verification to the Committee.

(b) The respective petitioners, on receipt of photostat copy of the caste/ tribe certificate, shall approach the concerned Sub Divisional Officer/ competent authority with an application for issuance of caste/ tribe certificate within a period of six weeks, thereafter.

(c) In the event earlier caste certificates had been issued by the Executive Magistrates, it would be open for the petitioners to tender an application to the Sub Divisional Officer of the concerned Division and such officer shall entertain the application and shall issue caste certificate/s in the prescribed proforma on verifying attested/ authenticated photostat copy of the earlier caste certificate.

(d) The concerned Sub Divisional Officer/ Competent Authority, on receipt of the applications by respective petitioners, together with attested/ authenticated photostat copy of the caste/ tribe certificate issued earlier, shall proceed to issue caste/ tribe certificate in the prescribed proforma certifying that respective petitioners belong to 'Koli Mahadev', scheduled Tribe. The Sub Divisional Officers/ Competent Authority shall issue certificate within a period of four weeks from the date of receipt of the applications.

(e) On receipt of tribe certificates, respective petitioners, shall approach the concerned Scrutiny Committees with a proposal in prescribed proforma

requesting the Scrutiny Committees to verify the Tribe Certificate and consider their applications for issuance of validity certificates. The respective petitioners shall approach the Scrutiny Committee within a period of eight weeks from the date of receipt of the caste certificate from the competent authority.

(f) On receipt of the proposal from respective petitioners, the Scrutiny Committee shall proceed to verify the caste/ tribe certificate and take appropriate decision after following procedure prescribed under law in respect of issuance of validity certificates, as expeditiously as possible, preferably within a period of one year from the date of receipt of the proposal/ application.

(g) The Scrutiny Committee shall accept the proposals directly and shall not refuse to accept the proposals on the ground that same have not been routed through proper channel, either employer or educational institutions.

(h) The respective education institutions/ colleges or the employees shall not take any adverse action against any of the petitioners only on the ground of their failure to produce validity certificate and further appropriate action can be taken only subject to result of verification claim, which would be lodged before the Scrutiny Committee, in accordance with the directions issued in this judgment.”

5. Having regard to aforesaid, we consider it expedient

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that the petitioner should resort to the recourse as referred to under paragraph No.18 quoted above. As referred to therein, particularly clause (h), no coercive action be taken against the petitioner only on the ground of failure to produce validity certificate till the decision of the Scrutiny Committee and subject to result of verification claim appropriate action may be decided if required. Petitioner shall act expeditiously make proper approach within a period of six weeks from today. Scrutiny Committee to decide the claim of petitioner thereafter as far as possibly by following proper procedure, giving opportunity to petitioner, within a period of four months.

6. With the aforesaid observations, the petition is disposed of. Rule is made absolute accordingly.

(R. G. AVACHAT)
JUDGE

(SUNIL P. DESHMUKH)
JUDGE

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