

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

916 WRIT PETITION NO.5895 OF 2014

Dilip Prabhu Mudraj,
age 49 years, occ. Service,
R/o Kanchan Vihar, Plot NO. 14,
Karwadi, Tq. Dist. Hingoli ...Petitioner

VERSUS

- 1] The State of Maharashtra,
through its Secretary,
Home Department,
Mantralaya, Mumbai,
- 2] The Schedule Tribe
Caste Certificate Scrutiny
Committee,
Aurangabad Division, Aurangabad,
- 3] The Superintendent of Police,
Motor Transport Section,
Department of Police,
Aundh 7, Pune,
District Pune,
- 4] The Superintendent of Police,
State Reserve Police Force,
Group – 12, Hingoli,
District Hingoli ...Respondents

...

Advocate for Petitioner : Mr. Bayas Anandsing
AGP for Respondents 1, 3 and 4 : Mr. S.P.Tiwari
Advocate for Respondent no.2 : Mr. P.S.Patils

**CORAM : T.V.NALAWADE
AND
SUNIL K.KOTWAL, JJ.**

DATE : JANUARY 22, 2019

ORAL JUDGMENT [Per T.V.Nalawade, J.]

Rule. Rule made returnable forthwith.
Taken up for final hearing with the consent of the
learned counsel for the parties.

2. The proceeding challenges the decision of
the Caste Scrutiny Committee, Aurangabad, by which
the claim of the present petitioner that he belongs
to Koli Mahadev Scheduled Tribe is rejected by the
Caste Scrutiny Committee.

3. Permission is granted to add the Sub-
Divisional Officer of the concerned Division as party
respondent to the present proceeding, as some
directions need to be given.

4. The reasons given by the Caste Scrutiny Committee show that certificate is cancelled mainly on the ground that the caste certificate is issued by the Sub-Divisional Officer by mentioning the tribe as Mahadev Koli when as per the Schedule, the caste getting benefit is 'Koli Mahadev'.

5. In similar matter, this Court had remanded the matter to the Caste Scrutiny Committee giving some directions. The directions can be found in the judgment reported in **2015 (4) Mh.L.J. 890 [Prakash s/o Subhash Bhople vs Deputy Collector (General) Latur and others]**. Para 8 of the said judgment read as under :

" 8. It would be appropriate to refer to some of the judgments of the Supreme Court. In the matter of Nityanand Sharma Vs. State of Bihar, reported in 1996 (3) SCC 576, the question arose before the Supreme Court was, as regards power to declare a particular tribe to be Scheduled Tribe under Scheduled Castes and Scheduled Tribes Order, 1950, as amended by the Scheduled Castes and Scheduled Tribes (Amendment) Act,

1976. The question before the Supreme Court was, as to whether caste 'Lohara' recorded in the Hindi version of the Schedule for Bihar, recording the Entry as 'Lohar' can be accepted as referring to a Scheduled Tribe when the English version records the entry as 'Lohara'. The Supreme Court, dealing with the issue and answering the same in negative, has observed in paragraph no.15 of the judgment, thus:

"15. It is for Parliament to amend the law and the Schedule and include in and exclude from the Schedule, a tribe or tribal community or part of or group within any tribe or tribal community for the State, District or region and its declaration is conclusive. The Court has no power to declare synonyms as equivalent to the Tribes specified in the Order or include in or substitute any caste / tribe etc. It would thus be clear that for the purpose of the Constitution, "Scheduled Tribes" defined under Article 366 (25 as substituted (sic) under the Act, and the Second Schedule thereunder are conclusive. Though evidence may be admissible to a limited extent or finding out whether the community which claims the status as Scheduled Caste or Scheduled Tribe, was, in fact, included in the Schedule concerned, the Court is devoid of power to include in or exclude from or substitute or declare

synonyms to be of a Scheduled Caste or Scheduled Tribe or parts thereof or group of such caste or tribe."

6. This Court holds that in similar way, the present matter needs to be disposed of.

7. With the afore said directions, the petition is allowed and disposed of.

8. Rule is made absolute accordingly. No costs.

[SUNIL K.KOTWAL, J.] [T.V.NALAWADE, J.]

dbm