

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

WRIT PETITION NO. 5872 OF 2014

Atmaram Mahadev Beske

Age: 56 years, Occu.: Service,

R/o Shivneri Bhawan, Sainath Nagar,

Mantha Road, Jalna, Dist. Jalna

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary,
Home Department,
Mantralaya, Mumbai

2. The Scheduled Tribe Caste Certificate
Scrutiny Committee,
Aurangabad Division, Aurangabad

3. The Principal,
Police Training Center,
Jalna Division, Jalna

..RESPONDENTS

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Mr. Anandsing Bayas, Advocate for petitioner

Mr. K.N. Lokhande, A.G.P. for respondent nos.1 and 3

Mr. A.B. Tele, Advocate for respondent no.2

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

DATED : 13th MARCH, 2019

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

Rule. Rule made returnable forthwith and heard petition finally by
consent of learned Counsel for the parties.

2. The petition is moved against invalidation of tribe claim of the petitioner being 'Koli Mahadev' for the reason that competent authority had issued tribe certificate to the petitioner as belonging to 'Mahadev Koli'.

3. Learned Counsel for petitioner contends that paragraph no.3 of the writ petition is uncontroverted that initial appointment of the petitioner was from unreserved category and he has not taken any benefit of Scheduled Tribe person. The learned Counsel submits that benefit of Scheduled Tribe had been sought subsequently with the purpose to have promotion. However, in the meanwhile before the benefit could be availed, he stood retired on superannuation. During the period of service he has not got any benefit as a tribal person.

4. The petitioner had been treated by the respondents an unreserved category employee and as of now, stands retired on superannuation receiving retiral benefits accordingly.

5. Learned Counsel further submits that with a view not to let escape benefits of being tribal to the progeny, it would be necessary to prosecute the process as referred to in paragraph no.18 reproduced hereinafter, else the legitimate benefits to progeny would be affected and may be deprived of the same.

6. Tribe claim of petitioner forwarded to the scrutiny committee has been rejected on the ground that having regard to various decisions referred to in the order of the scrutiny committee, the certificate being not as per entry no.29 as appearing in Scheduled Castes and Scheduled Tribes Order, 1950 and Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976.

7. Learned Counsel for the petitioner submits that under similar situation, a group of writ petitions has been decided in respect of tribe 'Koli Mahadev' bearing Writ Petition No. 4536 of 2014 and other companion matters, holding that the order of Scrutiny Committee is not liable to be faulted with for the reason entries in Scheduled Castes and Scheduled Tribes Order, 1950 and (Amendment) Act, 1976 must be read as it is and it is not permissible to record a finding that a tribe, sub-tribe, part of or group of any tribe or tribal community is synonymous to one mentioned in Scheduled Tribes Order. It appears that the decision has also taken note of that the tribe 'Koli Mahadev' is entered at Sr. No.29 in the Order. However, the tribe referred to in the Government Resolution dated 24th April, 1985 and annexure thereto is 'Mahadev Koli' and accordingly, certificates were issued to the persons belonging to tribe 'Koli Mahadev' referring to their tribe as 'Mahadev Koli' and in the past such certificates have been validated by respective scrutiny committees without objection to difference in reference to the tribe. It has been observed that there is no such tribe or caste in the State of

Maharashtra as 'Mahadev Koli'. However, liberty to resort to corrective action at the instance of the concerned/affected persons had been allowed and had kept open avenue to have scrutiny.

8. The decision of the Division Bench in the aforesaid group of writ petitions contains certain directions in paragraph no.18 therein, as under -

“ 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 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 employers 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.”*

9. Learned Counsel for the petitioner reiterates that though decision of the Scrutiny Committee may not directly affect petitioner as much and would not affect the retiral benefits of the petitioner, yet the process, as referred to in paragraph no.18 reproduced hereinabove may be beneficial to and of assistance to progeny of petitioner. In order to facilitate the same, recourse to the process under paragraph no.18 referred to hereinabove may have to be resorted to.

10. After hearing learned Counsel for the parties, it appears that case of petitioner would be covered to a considerable extent by the decision of the Division Bench. In view of the same, it would be expedient that petitioner shall follow the course of action, as referred to in paragraph no.18 quoted hereinabove. Needless to refer to that impugned decision by the Scrutiny Committee shall not adversely affect service benefit of petitioner since petitioner has not derived any benefit from tribe claim . Hence, writ petition is disposed of. Rule discharged.

(R.G. AVACHAT, J.)

(SUNIL P. DESHMUKH, J.)

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