

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1943 OF 2016

Shri Mahendra Harishchandra Chogale. ... Petitioner.

V/s.

State of Maharashtra and others. ... Respondents

Mr.Sanjay Kulkarni for the Petitioner.

Mr.M.M.Pabale, AGP for respondent Nos.1 to 4.

CORAM : PRADEEP NANDRAJOG, C.J.
AND N.M.JAMDAR, J.

DATE : 16 July 2019.

P.C. :

The petitioner has challenged the order passed by the Scheduled Tribe Certificate Scrutiny Committee, Thane invalidating the caste certificate issued to the petitioner certifying him as belonging to Mahadev Koli Scheduled Tribe.

2. The petitioner applied to the Sub Divisional Officer, Alibaug for a caste certificate as belonging to Mahadev Koli Scheduled Tribe. The Sub Divisional Officer issued a caste certificate to the petitioner on 11 November 1996. The claim of the petitioner was referred to the Scrutiny Committee, Thane for verification. The Scrutiny Committee directed Vigilance Cell

attached to it to carry out field enquiry. The Vigilance Cell submitted report and produced school records of the petitioner, his father and brother. The petitioner was given an opportunity to explain his case. The Scrutiny Committee noting that the school record of the petitioner's father prior to 1950 showed an entry of Hindu Koli and that being the oldest entry, negated the claim of the petitioner as belonging to Mahadev Koli. By the impugned order dated 31 December 2015, the Scrutiny Committee invalidated the caste certificate issued to the petitioner.

3. Before the Scrutiny Committee, the petitioner had produced a school leaving certificate of himself which was of the year 1972, the school leaving certificate of his father Harishchandra wherein the date of admission mentioned is 23 June 1949 and other documents i.e. service book, death certificate of his father, village extract, property record etc. The Vigilance Cell in its field enquiry collected evidence as regards petitioner's brother. The record of petitioner's brother Jagdish showed entry as Hindu Malhar Koli.

4. As regards entry of 1949 in respect of petitioner's father, learned counsel appearing for the petitioner contended that the entries in the petitioner's own record show entry as Mahadev Koli and Koli is a generic term. He submitted that the different tribes such as Mahadev Koli, Malhar Koli were generically known as Koli and, therefore, the entry Mahadev Koli is not fatal to the petitioner's claim. He submitted that petitioner's school record showed entry of

Mahadev Koli in the year 1972 which ought to have been taken into consideration.

5. The argument that Koli is a generic term is negated by the Supreme Court in the case of *Kumari Madhuri Patil v. Addl. Commissioner*¹ as far back in the year 1995 and the said view has been followed in various cases. Therefore, Koli cannot be considered as a generic term nor is a synonym along with Mahadev Koli in the Scheduled Tribe Order. The Supreme Court in the case of *Madhuri Patil* (supra) has also laid down that entries in the school records of the candidate prior to the year 1950, when the benefits of reservation policy were extended to the members of the Scheduled Tribe, have high probative value. Except stating that Koli is a generic term, there is no explanation forthcoming in respect of the entry of Koli in petitioner's father's school record. If the Scrutiny Committee has relied upon this position, it cannot be said that the view taken is perverse. Furthermore, entry in the record of petitioner's brother is Malhar Koli. Malhar Koli is a different community than Mahadev Koli. Therefore, in the petitioner's family there are entries of three different communities i.e. petitioner's father is Koli, petitioner's brother is Malhar Koli and petitioner is Mahadev Koli. This anomalous position has not been explained by the petitioner satisfactorily. The petitioner has not produced any other documentary evidence of pre-constitution period to substantiate his claim.

1 1995 AIR 94 : 1994 SCC (6) 241

6. The petitioner has filed an additional affidavit wherein he has placed on record certain generic material containing extracts from Census of India. However, the lack of documentary evidence in support of petitioner's own case has not been explained. Section 10 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 placed burden on the person claiming to be a member of Scheduled Tribe to prove the same.

7. The petitioner has filed an additional affidavit stating that he has filed complaint with Anti-Corruption Bureau stating that the officer working as Investigating Officer had demanded bribe from the petitioner. How this would prove the caste claim of the petitioner is not explained.

8. The petitioner's reliance on the decision of this Court in the case of *Shamakanta Vasantrao Baviskar v. The Director, Tribal Research and Training Institute*², is misplaced. This decision was rendered prior to the law laid down by the Supreme Court in the case of *Madhuri Patil* and, naturally, it has not referred to it.

2 WP No.383/1994 decided on 3 February 1994

9. In these circumstances, we find no error in the appreciation of evidence by the Scrutiny Committee. The writ petition is, accordingly dismissed.

N.M.JAMDAR, J.

CHIEF JUSTICE