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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5348 OF 2019

Harshada Pradipkumar Sapkale ...Petitioner

: V E R S U S :

1. State of Maharashtra
Through its Secretary,
Tribal Development Department.
2. Scheduled Tribe Certificate
Scrutiny Committee, Konkan
Division, Thane through its
Member Secretary.
3. Directorate of Technical Education,
Maharashtra.
4. Vidyalkar Polytechnic.
Wadala, through its Principal. ...Respondents

Mr. Ramchandra K. Mendadkar, Advocate for the
petitioner.

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Ms. Reema Salunkhe, AGP for respondents no.1 to 3.

CORAM : S.C. DHARMADHIKARI, &

SANDEEP K. SHINDE, JJ.

Order Resd. On : Thursday, 18th July, 2019.

Order Pron. On : Monday, 22nd July, 2019.

P.C. (Per : Sandeep K. Shinde, J) :

1. This petition under Article 226 of the Constitution of India, seeks to challenge the legality, validity and propriety of the order dated 3rd April, 2019 passed by respondent no.2-Committee invalidating the Caste Certificate of the petitioner as belonging to Koli Mahadev Scheduled Tribe.

2. Initially, petitioner was declined Caste Certificate, however, in terms of the order dated 11th July, 2018 passed in Writ Petition No. 7331 of 2018, the Competent Authority issued Caste Certificate to

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the petitioner certifying that, she belongs to Koli-Mahadev Schedule Tribe which is recognised as Koli-Mahadev Schedule Tribe.

3. The petitioner moved the respondent no.2-Committee on 25th April, 2017 for grant of Caste Validity Certificate and submitted various documents including documents pertaining to pre-constitution period in relation to her grandfather and of his two brothers.

4. The petitioner thereafter applied for the validation of the Caste Certificate on 16th July, 2018 and in support submitted the following documents :

(i)Primary School Leaving Certificate of her paternal grandfather, Laxman Rupchand Sapkale showing his caste as a Koli-Mahadev as on 7th June, 1943.

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(ii) Primary School Leaving Certificate of Gopal Rupchand Sapkale, the real brother of her grandfather, showing his caste as Koli-Mahadev as on 7th June, 1943.

(iii) Primary School Leaving Certificate of Yamunabai Rupchand Sapkale, real sister of her grandfather, showing her caste as Koli-Mahadev as on 23rd July, 1947.

(iv) Primary School Leaving Certificate of Bhagwat Rupchand Sapkale, brother of her grandfather (Laxman) showing his caste as Koli-Mahadev as on 11th March, 2014.

(v) Affidavit of father of the petitioner, Pradeep Laxman Sapkale, affirming genealogy of the petitioner.

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5. The respondent no.2 Committee, as it appears, not being satisfied with these documents, referred the matter to the Vigilance Cell who conducted the enquiry and submitted its report dated 11th March, 2019 to the Scrutiny Committee. The Vigilance Cell has placed on record the extract of Primary School, D.S. Deshmukh High School, Thorgavhan, Taluka-Raver, District-Jalgaon relating to her grandfather, Laxman Sapkale and brother of grandfather, Gopal Sapkale. The extract is at page-51 of the petition. It shows that Gopal Sapkale (grandfather of the petitioner) was admitted in the School on 7th June, 1943 and in the caste column, his caste is shown as Hindu-Koli (Mahadev). Likewise, in relation to Laxman Sapkale (brother of Gopal), extract shows, he was admitted in the School on 7th June, 1943 and his caste is also shown as Hindu-Koli (Mahadev). In the last column of the extract, there is a remark against the name of Gopal Sapkale, as well

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as, Laxman Sapkale. In the remark column, it is stated thus, "[Mahadev] E.I.C.D'S No.5-8(5) s 8.7.46" and a similar remark has been shown as against Laxman Sapkale's name. To appreciate the contention of the petitioner, the extract is reproduced hereinbelow :

Sr no	Reg.No Book No.	Student Name	Caste	Place of Birth	Date of Birth	Date of Admission in school and Standard	Remark
1	106/2	Sapkale Gopal Rupachand	Hindu Koli (Mahadev)	Chinawal	24.4.1930	7.6.43 IVTH	Mahadev E.g.C D.S.No. 5.8(5)5 8.7.46
2	107/2	Sapkale Laxman Rupachand	Hindu Koli [Mahadev]	Faizpur	1.2.1932	7.6.43 IIND	Mahadev E.g.C. D.S.No. 5.8(5)5 8.7.46
					Above two students School Admission Entry was on 7/6/53 [Mahadev]. This entry on 8.7.46 was with different ink.		

6. The Vigilance Cell has also produced the

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extract of School record in relation to Yamunabai Rupchand Sapkale (sister of petitioner's grandfather). It is at page-55. It shows, Yamunabai was born on 8th August, 1935 and admitted in the School at Savda, Taluka-Raver, District-Jalgaon on 23rd July, 1947. In the caste column, her caste is shown as Hindu-Mahadev-Koli. Yet another extract of school record in relation to Bhagwat Rupchand Sapkale (brother of petitioner's grandfather) shows, Bhagwat Sapkale was born on 12th June, 1937 and was admitted in the School at Savda, Taluka-Raver, District-Jalgaon on 11th March, 1949. His caste in the extract is shown as Hindu-Mahadev-Koli.

7. It may be stated that, all the aforesaid four extracts are certified by the Head-Master as the true copies which were drawn on the basis of the Register maintained by the School.

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8. So far as the extract which is reproduced hereinabove is concerned, it may be stated that, there is an endorsement which reads that Gopal and Laxman were admitted in the School on 7th June, 1943; however, the word "Mahadev" has been added in caste column on 8th July, 1946 and that too in different shade of ink.

9. The Committee upon appreciating the school record of the grandfather of the petitioner as well as his brother, was impressed by the endorsement made by the Headmaster which says; Gopal and Laxman (Grandfather of the petitioner and his brother) were admitted in the school in June, 1943 but word "Mahadev" came to be added in July, 1946 and that too in different shade of ink. The Committee thus reached the conclusion that the School records have been tampered with and word "Mahadev" has been interpolated. The Committee thus discarded school

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record of Gopal and Laxman though it pertains to pre-independence period.

10. Mr. Mendadkar, learned Counsel for the petitioner submits that the aforesaid school record since pertaining to pre-constitutional period, it has higher probative value, however, without assigning any cogent and convincing reason, the Committee erroneously discarded it. He further submits that the impugned order is arbitrary, against the settled law and therefore it may be quashed and set aside.

11. We have perused the record. The extract of Primary School Record of Gopal, Laxman, Bhagwat and Yamunabai produced by the Vigilance Cell show entries in relation to their birth, admission in the school were made before 6th September, 1950 i.e. before Constitution (Scheduled Tribes) Order, 1950.

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The Committee overlooked the fact that the word "Mahadev" has been added in the caste column in relation to Gopal and Laxman in view of the approval granted by the authority, as evident from the remark, "[Mahadev] E.I.C.D'S No.5-8(5) s 8.7.46". Thus the conclusion reached by the Committee that the word "Mahadev" which has been interpolated, is nothing but conjecture and surmise. The Committee equally failed to appreciate that the addition of word "Mahadev" being made in 1946 would obviously be in different ink in contrast to the other entries made in the year 1943 when Gopal and Laxman were admitted in the school. More so, the Committee without assigning reasons kept entries in relation to the school record of Bhagwat and Yamunabai out of consideration, made in the year 1948 and 1950 respectively, which discloses their caste as Hindu-Mahadev-Koli. We are unable to understand, as to why, Yamunabai's school particulars were kept out of consideration. Thus,

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upon consideration of the facts and the evidence on record, in our view, the conclusion reached by the Committee for discarding these four pre-constitutional documents is unfounded and contrary to the evidence on record.

. In the case of **Anand Versus. Committee for Scrutiny And Verification of Tribe Claims and Others**, reported in (2012) 1 SCC 113, the Apex Court has held that, pre-constitutional documents will have higher degree of probative value while considering the claim of the candidate.

12. The Committee thus failed to appreciate the probative value of these four documents and incorrectly invalidated the petitioner's claim.

13. Thus, for the reasons stated the impugned order is quashed and set aside and the Committee is directed to validate the caste claim of the

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petitioner as she belongs to the Koli-Mahadev Schedule Tribe.

14. This petition was filed on 15th April, 2019 when the petitioner was about to appear for final year Diploma Course of Computer Engineering. Petitioner passed the Diploma on 13th June, 2019 and now seeks admission in the Direct Second Year of Full Time Under Graduate Degree course. As per the admission notice dated 9th July, 2019 issued by the State Common Entrance Cell, M.S. Mumbai, she has to submit the Caste Validity Certificate on/or before 22nd July, 2019 failing which she would not be considered for admission of the course.

15. Thus, taking into consideration the deadline for submitting the Validity Certificate, we uphold the caste claim of the petitioner and accordingly validate her claim as she belongs to

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Koli-Mahadev Schedule Tribe and direct the respondent no.2-Committee to issue appropriate Certificate within two days. That since the petitioner has applied for Second Year Engineering Degree Course and for securing the admission, she has to submit her Validity Certificate before 22nd July, 2019. We direct the authority concerned i.e. the State Common Entrance Cell, Maharashtra State to act on authenticated copy of this order.

16. The petition is allowed in the aforesaid terms.

(SANDEEP K. SHINDE, J)

(S.C. DHARMADHIKARI, J)