

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8408 OF 2019

Gaurav S/o.Bapu Sonawane }	Petitioner
versus	
The Scheduled Tribe Caste }	
Certificate Scrutiny Committee }	
and Ors. }	Respondents

Mr.Piyush Pande for the petitioner.

Mr.Vikas M. Mali-AGP for State.

**CORAM :- S. C. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.**

DATED :- AUGUST 2, 2019

P.C. :-

1. By this writ petition under Article 226 of the Constitution of India, petitioner-Gaurav Bapu Sonawane, son of Bapu Ganpat Sonawane, challenges the order of the caste/tribe scrutiny committee, Nashik dated 18th July, 2019.

2. The petitioner says that he is the citizen of India and resides at the address mentioned in the cause title. A caste certificate was issued on 16th September, 2014 certifying that the petitioner belongs to Koli Mahadev Scheduled Tribe listed at Sr. No. 29 of the Constitutional Scheduled Tribes Order, 1950.

3. After the passing of XIIth Standard examination, the petitioner submitted an application for verification of his caste claim through the college. That application was forwarded and on 26th July, 2018, the scrutiny committee received this application supported by as many as 13 documents. The petitioner appeared for the Common Entrance Test (CET) under the Scheduled Tribe category and that result was declared on 4th June, 2019.

4. After the petitioner was allotted a seat under the Scheduled Tribe category in Mechanical Engineering course in respondent no.4 college, the petitioner was called upon to produce a certificate of validity. The scrutiny committee was requested to issue it on the ground that Bapu Ganpat Sonawane, the father of the petitioner has been issued such a certificate of validity, together with the certificate of validity issued to Ravikant Ganpat Sonawane. Relying upon the family tree and genealogy, it is argued before us by Mr.Pande, the advocate appearing for the petitioner that there is a common ancestor Mahadu Sonawane and Mahadu had two sons, namely, Rangnath and Sakharam. In turn, Rangnath had one son Sukhdev and Sakharam had one son Shivram. Sukhdev had one son Namdev and Shivram had another son Ganpat. The present branch is of Ganpat Sonawane

and Ganpat has four sons. One of the sons of Ganpat is Bapu, the father of the present petitioner to whom the certificate of validity has been issued so also Ravikant Sonawane. Both were issued the certificates of validity in the year 2005.

5. Mr.Pande would contend that if the caste/tribe is derived from the father, then, in this case, it is inconceivable that Bapu Ganpat Sonawane, the father of the petitioner is Koli Mahadev, whereas, the petitioner is not. The certificate of validity could not have been discarded on the specious plea that Bapu Sonawane and Ravikant Sonawane obtained the certificates of validity by allegedly misrepresenting their cases. The entries pertaining to the constitutional period, particularly pre-1950 were not produced, in which, the insertion is that the family members belong to Hindu Koli caste, but not Hindu Koli Mahadev Scheduled Tribe. There are show cause notices issued to Bapu Sonawane and Ravikant Sonawane and therefore, all the more the scrutiny committee was disinclined to grant any relief to the petitioner.

6. On careful perusal of the petition and its annexures, we find that the certificates of validity are issued to the father of the petitioner and the uncle of the petitioner, namely, Ravikant. The father of the petitioner was issued a certificate of validity, but the

scrutiny committee observes that in the case of the grandmother of the petitioner-Babadi Shivram Sonani, her school records show that she was not Hindu Mahadev Koli, but Koli simplicitor. This entry is of 10th October, 1947 and there is another person in the family, namely, Devchand Mahadu Koli. He is cousin great grandfather of the petitioner. These two entries are extremely relevant and based on that, the certificate of validity issued to the petitioner's father has been questioned. In the cousin great grandfather's case, the entry is 'Koli' and that is of 1st July, 1914.

7. We cannot sustain this approach of the scrutiny committee because from the year 2005 till date, the certificate of validity issued to the petitioner's father has not been cancelled. A show cause notice has been issued to Bapu Sonawane, but there are no particulars with regard to the finalisation of the case against Bapu Sonawane. If the father is certified to be Koli Mahadev Scheduled Tribe, we do not understand how the petitioner (son) can be excluded from the benefit. So long as that certificate of validity of Bapu, the father of the petitioner is not set aside, the petitioner is also entitled to a certificate of validity and that was the logical conclusion flowing from the certificate of validity issued to the petitioner's father.

8. In these circumstances, we quash and set aside the impugned order. We direct that a certificate of validity be issued to the petitioner latest by 5th August, 2019. However, that will be conditional upon the decision of this scrutiny committee in the case of the petitioner's father Bapu Ganpat Sonawane and uncle Ravikant Ganpat Sonawane. In the event their certificates of validity are cancelled and confiscated, the same result will follow as far as the petitioner is concerned.

9. The writ petition is allowed in the above terms. There would be no order as to costs.

(SANDEEP K. SHINDE, J.) (S.C.DHARMADHIKARI, J.)