

Amk

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9409 OF 2014

Rajendra Sakharam Gondhali & Anr. .. Petitioners
Vs.
State of Maharashtra & Ors. .. Respondents

Mr. Chintamani Bhangoji i/b Mr. R. K. Mendadkar & Helan Koli
Mandlik for the Petitioners.

Mr. M. M. Pabale, AGP for Respondent Nos.1, 2 & 5.

CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.
DATE : 6th JUNE, 2019.

P.C. :

1. Heard learned Counsel for the parties.
2. The Writ Petitioners are siblings. Their father's name is Sakharam. The Petitioners are aggrieved by a common order dated 14.08.2014 passed by the Caste Scrutiny Committee rejecting their claim to be members of the Scheduled Tribe-Mahadeo Koli. In sub-paragraphs (A) and (B) of paragraph 2 of the impugned order the documents relied upon by the Petitioners to establish their claim have been encapsuled by the Caste Scrutiny Committee. In paragraph 3 of

the impugned order, the Committee has noted that in order to verify the correctness of the claim of the Petitioners, the documents were handed over to the Vigilance Cell of the Committee to conduct the necessary inquiry. The Committee has thereafter noted in paragraph 4 of the impugned order that the report of the Vigilance Cell was furnished to the Applicants for their response and they were called for personal hearing on 09.12.2011 on which date hearing could not be held. Hearing was held on various dates thereafter as noted in paragraph 4 of the impugned order. In paragraph 5 of the impugned order, the Committee has given reasons discussing the documents filed by the Petitioners. The Committee has noted that the documents filed by the Petitioners were issued by the local authorities such as Sarpanch, Grampanchanyat, Police Patil and probably based upon their personal knowledge. The Committee has noted that the document pertaining to Petitioners' grand-father as of the year 1919 recorded his caste as Mahadeo Koli. The order records that the Tahasildar, Alibag was sent a communication to submit report after verifying the record concerning the said document. The order records that no report was received from the Tahasildar. Opinion formed is that it creates a doubt in the mind of the Committee to the correctness of the said document. The

Committee has thereafter proceeded to note that the Vigilance Cell obtained documents when Petitioners' paternal aunt and brother of Petitioners' father obtained admission and the same shows that when the Petitioners' paternal aunt obtained admission in a school showing her date of birth to be 01.06.1942 and date of admission 20.11.1949, the Caste was shown as Koli. Therefrom opinion has been formed that the Petitioners are Hindu Koli and not Mahadeo Koli.

3. Having heard learned Counsel for the parties, we find that the family genealogy could be traced from the great grand-father of the Petitioners and qua him the Petitioners filed the necessary documents. If the Tahasildar did not respond to the letters sent by the Caste Scrutiny Committee, the least which was expected from the Committee was to issue a notice to the Tahasildar with a direction to produce original record based whereon certificates relied upon by the Petitioners were issued.

4. There being a procedural non compliance with the principles of natural justice by the Caste Scrutiny Committee, we dispose of the Petition quashing the impugned order dated 14.08.2014. Proceedings before the Caste Scrutiny Committee are revived with a direction that the Committee would issue direction to the Tahasildar concerned to

produce the record based whereon Gaon Namuna No. 14 was issued to the Petitioners. Suffice it to note that as per Section 9 of Act No. 23 of 2011, the Scrutiny Committee has all powers of a Civil Court while conducting the reference made to it and vide Clause (a) of Section 9 of the Act power to summon and enforcing attendance of any person before Committee is vested in the Committee. No costs.

[N. M. JAMDAR, J.]

[CHIEF JUSTICE]