

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1435 OF 2019

1. Santosh Kerba Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025
2. Shrikant Dattatray Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025
3. Amol Shankar Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025
4. Ramchandra Pappu Padher
for son Nikhil Ramchandra Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025
5. Pandurang Sitaram Padher
for son Piyush Pandurang Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025
6. Laxman Sakharam Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025
7. Kisan Sitaram Padher
for son Aayush Kisan Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025
8. Popat Sitaram Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025
9. Dattatray Pappu Padher
for daughter Pournima Dattatray
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025
10. Kashinath Kisan Padher
for son Aditya Kashinath Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025
11. Bharat Ramchandra Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025

12. Navanth Sakharam Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025
13. Ranganth Sakharam Padher
for daughter Monica Rangnath Padher
R/at: At Post Atkarwadi, Tal. Haveli,
Dist. Pune 411 025

...Petitioners

Versus

1. State of Maharashtra
Through it's Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 400 032
2. Scheduled Tribe Certificate Scrutiny
Committee, Pune Division, Pune
through its Deputy Director and
Member Secretary, having its office at
28, Queen's Garden, Pune – 411 001
3. The Sub-Divisional Officer, Haveli,
Sub-Division, Pune.

...Respondents

Mr. Pralhad D. Paranjape, for the Petitioners.
Mr. A. P. Vanarse, AGP for Respondent nos.1 to 3/State.

**CORAM: R. M. BORDE &
N. J. JAMADAR, JJ**
DATED: 9th JULY, 2019

Oral Judgment:- (Per R. M. Borde, J.)

1. Rule. Rule made returnable forthwith and, with the consent of the counsels for the parties, heard finally.
2. The Petitioners are related with each other and claim to belong to Mahadeo – Koli, Scheduled Tribe. Separate application tendered individually by each of the Petitioners, for issuance of tribe certificate, have been rejected by the Sub-Divisional Officer. The appeals tendered by the

Petitioners to the Scrutiny Committee were taken out for consideration together and by a common judgment, the Scrutiny Committee proceeded to reject the appeals.

3. The Petitioners are aggrieved by the orders passed by the Sub-Divisional Officer rejecting their requests for issuance of tribe certificate so also confirmation of the order of Sub-Divisional Officer by the Scrutiny Committee in exercise of the appellate jurisdiction.

4. The Petitioners contend that there is sufficient *prima facie* material placed on record to draw the conclusion, at least *prima facie* that the Petitioners are entitled to claim a certificate from the competent authority certifying that they belong to Mahadeo – Koli, Scheduled Tribe. The school record produced by the Petitioners before the Sub-Divisional Officer indicate an entry in respect of the Tribe as Mahadeo – Koli. Apart from the school record, the Petitioners relied upon the old entries in the form of service record of the blood relations of the Petitioners, wherein the entry in respect of the Tribe has been recorded as Mahadeo – Koli.

5. The Petitioners have produced on record a certificate issued by the Tahsildar and Executive Magistrare, Taluka Haveli, on 1st September, 1980, in favour of Pappu Narayan Padher, the father of Petitioner no.4 Ramchandra and grand-

father of Petitioner no.10 – Kashinath and Petitioner no.11 - Bharat, brother of Petitioner no.9 Dattatraya and cousin grand-father of Shrikant – Petitioner no.2.

6. Ramchandra Pappu Padher, Petitioner no.4, was in employment in Pune Municipal Corporation and the first page of the service record of Petitioner no.4, maintained by the Pune Municipal Corporation, records entry in respect of the Tribe as Mahadeo – Koli. It is contended that one Sitaram Bala Padher, the cousin brother of Pappu, father of Petitioner no.5, was also issued a certificate by the Executive Magistrate way back in the year 1978, certifying that he belongs to Mahadeo-Koli, Scheduled Tribe.

7. The Petitioners have relied upon the service record of one Kerba Dhondiba Padher, father of Petitioner no.1 Santosh Padher, who was in employment in the Forest Department. The service record of father of Petitioner no.1 records the entry in respect of his Tribe as Mahadeo-Koli. One Anil Kerba Padher, the brother of Petitioner no.1, is in receipt of Tribe Certificate issued by the Tahsildar and Executive Magistrate, Haveli, on 2nd July, 1985. Similarly, one Ashok Bhimrao Padher, the cousin brother of Santosh – Petitioner no.1, is also in receipt of a certificate issued by the Tahsildar and Executive Magistrate, Pune, on 11th May, 1983.

8. The Petitioners also inform that the local enquiry conducted by Circle Inspector/Talathi/Police Patil also supports the claim of the Petitioners as belonging to Mahadeo-Koli, Scheduled Tribe. The Scrutiny Committee as well as the Sub-Divisional Officer proceeded to turn down the request made by the Petitioners for the reason that they could not establish their affinity with the Scheduled Tribe. It must be recorded that, at the stage of issuance of Tribe Certificate, the issuing authority is required to peruse the *prima facie* material in support of the claim and is not expected to conduct a detailed enquiry. A detailed enquiry as regards the caste/tribal status of an individual is expected to be conducted at the stage of issuance of validation certificate. An individual is not entitled to claim benefits under Government policy, or the benefits in the matter of employment or for pursuing the higher education, unless an individual is possessed of a validity certificate.

9. In the instant matter, according to us, the Petitioners have produced sufficient material to draw a conclusion at least *prima facie* that they belong to Koli-Mahadeo, Scheduled Tribe and are entitled to receive a certificate from competent authority certifying accordingly.

10. In the circumstances, the writ petition deserves to be allowed and same is accordingly allowed in the following terms:

(i) The order passed by the Scrutiny Committee dated 24th January, 2018, confirming the order passed by the Sub-Divisional Officer dated 25th February, 2016, rejecting the claim of the Petitioners, for issuing Tribe Certificate, stands quashed and set aside.

(ii) The concerned Sub-Divisional Officer is directed to issue Tribe Certificates to each of the Petitioners, as expeditiously as possible, preferably within four weeks from today.

11. It is clarified that the observations made in the judgment are for the purposes of dealing with the issue of issuance of Tribe Certificate and it would be open for the Scrutiny Committee to conduct an enquiry/investigation in accordance with the provisions of law as and when the proposals for verification of tribe certificates are forwarded/submitted to the Committee.

12. Rule is made absolute accordingly. No costs.

[N. J. JAMADAR, J.]

[R. M. BORDE, J.]