

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

WRIT PETITION NO.14369 OF 2018

Shri.Jatindra Alias Jagadish
Chandrakant Patil & Anr.

...Petitioners

Versus

The Secretary,
Tribal Development Dept.,
Government of Maharashtra & Ors.

...Respondents

Mr.J.C. Patil Petitioner present in person.

Mr.A.B. Vagyani, Government Pleader a/w Ms.R.A. Salukhe, AGP for
the Respondent-State.

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 11th MARCH 2019

P.C.

1. Heard the petitioner in person and Mr.Vagyani, learned
Government Pleader for the Respondent-State.

2. Petition is filed for the following reliefs :-

“(a) This Honourable Court be pleased to issue a writ of certiorari and/or any other writ, order or directions and to call for records pertaining to the orders dated 23/03/1994 and 25/10/2001 of the respondents Nos.3 and 4 and thereby quash and set aside the orders and it may be declared that the orders

are bad in law;

(b) This honourable court be pleased to issue a writ of mandamus and/or any writ and/or direction and/or order and thereby declare that the government resolution No.1673/34 dated 23rd April 1942 of the Political and Services Department of Government of Bombay is/has been forged, fabricated and manipulated after the year 1960 to deceive/cheat the more particularly the Koli Community in Maharashtra.

(c) This Honourable court be pleased to quash and set aside the consequential government resolution No.CBC-1494/Par.Kar.236/Mavaka-5/dated 13/6/1995 of the Social Welfare and Cultural Affairs, and Sports Department and the government resolution No.BCC/Par.Kar.68/94/16B dated 15/6/1995 of General Administration department of the government of Maharashtra.”

3. The petition is filed by the two petitioners and the Scrutiny Committee had rejected the claim of petitioner No.1 Jatindra Alias Jagdish on 23.0.1994 whereas the claim of the petitioner No.2 as belonging to 'Mahadev Koli' was rejected on 25.03.2001. In the order passed by the Committee on 23.03.1994, the Committee while rejecting the claim it is declared that the

petitioner belongs to caste 'Koli' and his certificate belonging to 'Mahadev Koli'-Scheduled Tribe is cancelled and confiscated.

4. Confronted that the situation when the claim of the petitioners of 'Mahadev Koli' was rejected, the petition then possess a challenge to the Government Resolution dated 23.04.1942 issued by the Political and Services Department of Government of Bombay. The petitioner No.2 appearing in person before us would urge that the said resolution needs to be quashed and set aside as it has been forged/fabricated and manipulated after the year 1960 and the entry of 'Koli' has been erased, thereby cheating the 'Koli' community in State of Maharashtra. The petitioners claim is that he had made repeated correspondence with the authorities raising a query as to why 'Koli's' are included in the Other Backward Class where they were supposed to be included in the Special Backward Class. The same materials have been fabricated, forged and manipulated the entire, and in such circumstances it has been caused to entire 'Koli' community in Maharashtra.

5. The said argument appears to be completely misconceived. The petitioner is referring to a Government Resolution dated 23.04.1942 which is a declaration of communities

included in accompanying schedule A and B to be classified as intermediate of the Backward Communities for the purposes of recruitment to Government services. The said resolution stipulated that communities which are not included in either of the schedule should be treated as advanced. This list includes 'Koli Malhar' and 'Koli Suryawanshi'. However, the said Government Resolution loses its efficacy after issuance of the Scheduled Caste and Scheduled Tribe order of 1950, in exercise of the power conferred under Article 341 and 342 of the Constitution of India in respect of Scheduled Caste and Scheduled Tribe respectively. After the enactment of the Constitution the power to specify a Scheduled Caste or Scheduled Tribe is vested in the President and any amendment to the said orders can only be effected by Parliament. It is not permissible either for the Court or the Government to interfere with the entries in the said order. The caste 'Koli' do not find place either in the Scheduled Caste or the Scheduled Tribe Order 1950 but it is included subsequently as a special backward category by the State. In such circumstances, the whole genesis of the petitioners claim must fall to the ground and there is no propriety for us to deal with the challenge posed by the petitioner to the Government Resolution dated 23.04.1942.

6. The petitioners have claimed to be belonging to 'Mahadev Koli' and accordingly staked their claim before the verification Committee and the Competent Committees have verified their claim and rejected the same. The petitioners cannot then fall back and argue that they belong to caste 'Koli'. More so ever the said petition is filed for lapse of almost two decades after the claim has been rejected and the orders passed by the Scrutiny Committee has reached finality. The petitioners have not challenged the same in any Court of law. For the aforesaid reasons, there is no merit in the petition and it is rejected.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)