

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13874 OF 2019

Akshada d/o. Suresh Navasare,
Age 17 years, Occ. Education,
Minor through her guardian Father
Suresh s/o. Bhika Navasare,
Age 39 years, Occ. Service,
presently residing at Ayodhya
Apartment, Mauli Colony,
Dharbale Mala, Shivajinagar,
Jail Road, Nasik Road, Nasik
permanent resident of Anandkhede
(Khkede) Taluka and District Dhule.

.. PETITIONER

VERSUS

- 1] The State of Maharashtra
Through Secretary,
Department of Tribal Development,
Mantralaya, Mumbai-32.
- 2] Scheduled Tribes Certificate
Scrutiny Committee,
through its Member Secretary,
Nasik Division, Nashik
Dist. Nashim.
- 3] The Commissioner & Competent Authority
Commissionerate of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A.K. Naik Marg, Fort,
Mumbai.

.. RESPONDENTS.

Mr. S.C. Yeramwar, Advocate for petitioner.
Mr. P.N. Kutti, AGP for respondents No. 1 and 2.
Mr. S.G. Karlekar, Advocate for respondent No.3.

**CORAM : SUNIL P. DESHMUKH &
R.G. AVACHAT,JJ.**

DATE : 11th DECEMBER, 2020.

ORAL JUDGMENT [PER SUNIL P. DESHMUKH, J] :-

1] Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally by consent.

2] The petitioner has approached this court invoking writ jurisdiction against the decision of respondent No.2 – Scheduled Tribes Certificate Scrutiny Committee, Nashik, dated 11-07-2019 declining her claim to consider her to be "*Tokre Koli*" scheduled tribe.

3] Learned counsel Mr. Yeramwar appearing for the petitioner points out that from the genealogy submitted it would be seen that two close relatives from parental side, namely, Vikas and Narendra, have been issued validity certificates of being "*Tokre Koli (28)*". While Vikas's validity certificate had been relied on, during the course of hearing, the petitioner could not secure his affidavit and as such, the claim of petitioner being his relative had not been taken into account. He submits that subsequently, his real brother – Narendra, who is also validity holder has given affidavit.

He further submits that recently, the petitioner could lay hands on an old document of 1905 of her great-great-grandfather, consideration of which is vitally imperative. Thus, petitioner is now in possession of material having strong probative value in support of her tribe claim, which could not be produced earlier, being not in her control. Petitioner's education is at stake and thus, she is in dire need of validity certificate.

4] Learned AGP, however, submits that not only evidence in the form of documents could not conclusively establish the claim of the petitioner but the petitioner could not get through ethnicity and affinity test as well. In the circumstances, decision by the committee is hardly impeachable.

5] A document of 1905 is being relied on to show the nexus with the tribe claimed by the petitioner, and with its aid, alongwith other document in the form of affidavit of validity certificate holder of her relation from the genealogy. According to counsel for petitioner, her claim stands fortified. Inability to adduce said material for reasons explained is not seriously disputed.

6] In the circumstances, we deem it expedient, and it may sub-serve the the cause of justice, to let the petitioner have an opportunity to establish her claim to be belonging to "*Tokre Koli*"

scheduled tribe.

7] In view of above, the impugned order is quashed and set aside. The proposal (tribe claim) of the petitioner stands revived and restored for re-determination by the respondent No.2 – Scrutiny Committee. In the circumstances, if the petitioner leads additional evidence in support of her claim, same be allowed by the Committee. The petitioner to appear before the Committee by 22nd December, 2020 and the Committee may decide on the claim of the petitioner afresh as early and possible and preferably by 20th January, 2021.

8] Rule made absolute in aforesaid terms. writ petition stands disposed of.

[R.G. AVACHAT, J]

[SUNIL P. DESHMUKH, J]

grt/-