

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4653 OF 2015

Pandharinath Tukaram Wakti. ... Petitioner.
V/s.
State of Maharashtra and others. ... Respondents.

Mr.R.K.Mendadkar for the Petitioner.
Mr.Karan Thorat, AGP for Respondent Nos.1 and 2.
Ms.Naveena Kumai for Respondent No.3.

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CORAM : **NITIN JAMDAR AND
M.S. KARNIK, JJ.**

DATE : **6 February 2020.**

P.C. :

By this petition, the Petitioner has challenged the order passed by the Respondent No.2- Scheduled Tribe Certificate Scrutiny Committee dated 30 April 2015 invalidating the caste certificate issued to the Petitioner dated 3 January 1998 as belonging to Mahadev Koli- Scheduled Tribe. The Petitioner applied for issuance of caste certificate to the Sub-Divisional Officer, Alibaug and, accordingly, the caste certificate was issued to the Petitioner. The Petitioner thereafter joined the service of Naval Dockyard where is he is working.

2. The caste certificate of the Petitioner was sent for verification to the Scrutiny Committee. As per the procedure contained in Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003, the Vigilance Cell was asked to conduct school, home and other enquiries. The enquiry report was submitted by the Vigilance Cell. The Petitioner was given an opportunity to reply to the said report and also to present his case before the Scrutiny Committee. After giving opportunity and assessing the documents produced on record, the Scrutiny Committee has passed the impugned order.

3. The Vigilance Cell has produced record pertaining to the Petitioner's relatives. They range from 1921 to 1962. All this record pertains to the Petitioner's father, uncle and other relatives. In the Petitioner's father's record there is entry of Hindu Koli and in the record of Petitioner's uncle there is entry of Malhar Koli. The Petitioner relied upon the school record of his sister where the entry of the year 1976 is of Hindu Mahadeo Koli. His brother's school record which is of 1980 there is entry of Hindu Mahadeo Koli. As regards the record of Petitioner's uncle which is of the year 1964 there is entry of Hindu Koli. As far as entries in the records of Petitioner's brother and sister are concerned, the said documents are recent documents and rightly not considered by the Scrutiny Committee as basis for Petitioner's claim. It is now settled that for

ascertaining veracity of the caste claim in respect of Scheduled Tribe, the documents of Pre-Constitution period are germane. The Petitioner has produced no document of Pre-Constitution period where the entry is of Mahadeo Koli. The burden is on the candidate to establish his cast claim. Not only the Petitioner has not produced any such document but the entry in his father's record shows as caste as Hindu Koli. Koli, is, by the decision rendered by the Supreme Court in the case of *Madhuri Patil v. Additional Commissioner, Tribal Development, Thane*¹ is a distinct community from Mahadeo Koli. The learned counsel for the Petitioner sought to contend that the documents from the year 1921 to 1949 wherein the entry is shown as Koli are not of the paternal relatives of the Petitioner. Even if the said entries are kept aside, in view of the above reasons, the Petitioner is not entitled to succeed.

4. There is no perversity in the assessment of evidence done by the Scrutiny Committee. Writ petition is rejected.

5. The ad-interim order granted in this petition is continued for a period of twelve weeks from today.

(M.S. KARNIK, J.)

(NITIN JAMDAR, J.)

¹ AIR 1995 SC 94