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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3421 OF 1996

Rajesh Chandrakant Adhatrao

..Petitioner

vs.

The Tahsildar Executive Magistrate
& ors.

..Respondents

.....

Mr. R.K. Mendadkar with Mr. Tanaji Jadhav for Petitioner.
Ms. Rupali Shinde, AGP for Respondent Nos. 1,2 and 5.

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CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.

DATE : 20 JANUARY 2020

P.C.:-

By this Petition, the Petitioner has prayed as follows :

“(a) Rule be issued ;

(b) The order dated 24 May 1996 passed by the Respondent No. 3 – Divisional Controller terminating the services of the Petitioner on the basis of order dated 27 December 1995 passed by the Respondent No.2 Committee be quashed and set aside.

(c) Pending hearing and final disposal of this Petition the execution, implementation, operation and effect of the order passed by the Respondent No.2 dated 27 December 1995 bearing No.TCBC/SER/PN/1468 be kindly ordered to be

stayed and the Respondent No.3 Divisional Controller be directed to reinstate the Petitioner into services with all consequential benefits ;

(d) Ad-interim reliefs in terms of prayer clause (c) hereinabove be granted.”

2. The Petitioner had applied for a caste certificate as belonging to ‘Mahadev Koli’ - ‘Scheduled Tribe’. The caste certificate was issued to the Petitioner on 4 October 1994. The caste certificate was sent for scrutiny to the Respondent No. 2 – Scrutiny Committee, by the employer of the Petitioner which by order dated 27 December 1995, invalidated the caste certificate of the Petitioner. In view of the order, the services of the Petitioner were terminated on 25 May 1996. By an ad-interim order dated 11 July 1996, services were protected.

3. Though what is challenged is the order of the termination of the Petitioner, the basis of the termination is the order of the Scrutiny Committee. If the order of the Scrutiny Committee is upheld invalidating the caste claim of the Petitioner then there will be nothing wrong in terminating the services of the Petitioner.

4. In this context, we have gone through the order of the Scrutiny Committee. The Petitioner seeks to assert that he belongs to the “Mahadev Koli Tribe”. The burden is on the Petitioner to

establish the said claim. The Petitioner had produced school records of himself and his father. Not of the document show favourable entries of pre-constitution period. A school leaving certificate of one Prabhakar Baburao Adhatrao is annexed with an entry of “Hindu Mahadev Koli” with date of leaving the school is 31 May 1961 and it is issued on 13 June 1990. But the relation with this person is not stated on oath in the Petition.

5. An order passed in the case of Dr.Vaijayanti Shashikant Bapat is annexed. No statement is made on oath that this person is related to the Petitioner and in what manner.

6. The contention of the Petitioner that ‘Koli’ is a generic term and Mahadev Koli is subclass is concluded against the Petitioner by the decision of the Apex Court in the case of *Kumari Madhuri Patil vs. Addl. Commissioner, Tribal Development and others*¹. The decision of the Commissioner, Tribal Development, Nashik, is placed on record in the case of one Mukesh Madhukar Adhatrao. This decision is prior to the decision in *Madhuri Patil*. Also exact relation with Mukesh Madhukar Adhatrao of the Petitioner has not been asserted on oath.

7. Therefore, the Committee rightly held that there were no sufficient documents to establish the claim of the Petitioner.

1 (1994) 6 SCC 241

8. The Petitioner was appointed on the basis of the caste certificate and the certificate having been invalidated, as per law no protection can be granted to the Petitioner. There was no error in the order of the termination based on the order of the Scrutiny Committee.

9. The Writ Petition is dismissed. Rule is accordingly discharged.

10. Ad-interim order operating in this Petition is continued for a period of 12 weeks from today.

(M.S.KARNIK, J.)

(NITIN JAMDAR, J.)

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