

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11848 OF 2019**

Vijaykumar @ Dadaso Jaysingrao Koli ... Petitioner

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr.D.V.Sutar with Mr.P.V.Jadhavar for the Petitioner.

Mr.A.I.Patel Addl.G.P. with Mr.R.P.Kadam AGP for the Respondent-State.

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**CORAM : R. D. DHANUKA AND
MADHAV JAMDAR, JJ.**

DATED : 18TH DECEMBER, 2020.

P.C:-

1. Mr.Sutar, learned Counsel appearing for the Petitioner at the outset seeks leave to amend and challenge the order 8/10/2020 passed by the Sub-Divisional Officer (Competent Authority), Ichalkaranji Division, Ichalkaranji, by which the Petitioner's application seeking issuance of caste certificate as belonging to Koli Mahadev, Scheduled Tribe was dismissed.
2. Leave granted. Amendment to be carried out during the course of day.
3. It is the case of the Petitioner that tribe certificate dated 25/02/1985 was issued by Executive Magistrate, Shirol certifying that the Petitioner belongs to "Mahadev Koli" which is recognised as Scheduled Tribe.

4. Learned Counsel for the Petitioner pointed out the judgment of this Court reported in **2015 (4) Mh.L.J. 890 in Prakash Subhash Bhole vs. Deputy Collector (General), Latur and Others** and particularly operative portion of the same which reads thus :

“18 (a) The petitioners, in these petitions, may approach the concerned Scrutiny Committees WP No. 5128/14 for issuance of photostat copy of the caste/tribe certificate produced by them for verifications, within a period of four months from today. The Scrutiny Committee, on receipt of such applicants, issue attested/authenticated copy of the caste/tribe certificate produced by respective petitioners for verification to the Committee.

(b) The respective petitioners, on receipt of photostat copy of the caste/tribe certificate, shall approach the concerned Sub Divisional Officer/competent authority with an application for issuance of caste/tribe certificate within a period of six weeks, thereafter.

(c) In the event earlier caste certificates had been issued by the Executive Magistrates, it would be open for the petitioners to tender an application to the Sub Divisional Officer of the concerned Division and such officer shall entertain the application and shall issue caste certificate/s in the prescribed proforma on verifying attested/authenticated photostat copy of the earlier caste certificate.

(d) The concerned Sub Divisional Officer/Competent Authority, on receipt of the WP No. 5128/14 applications by respective petitioners, together with attested/authenticated photostat copy of the caste/tribe certificate issued earlier,

shall proceed to issue caste/tribe certificate in prescribed proforma certifying that respective petitioners belong to 'Koli Mahadev', Scheduled Tribe. The Sub Divisional Officers/Competent Authority shall issue certificate within a period of four weeks from the date of receipt of the applications.

(e) On receipt of Tribe certificates, respective petitioners, shall approach the concerned Scrutiny Committees with a proposal in prescribed proforma requesting the Scrutiny Committees to verify the Tribe Certificate and consider their applications for issuance of validity certificates. The respective petitioners shall approach the Scrutiny Committee within a period of eight weeks from the date of receipt of the caste certificate from the the competent authority.

(f) On receipt of the proposal from respective petitioners, the Scrutiny Committee shall proceed to verify the caste/tribe certificate and take appropriate decision after following procedure prescribed under law in respect of issuance of validity certificates, as WP No. 5128/14 expeditiously as possible, preferably within a period of one year from the date of receipt of the proposal/application.

(g) The Scrutiny Committee shall accept the proposals directly and shall not refuse to accept the proposals on the ground that same have not been routed through proper channel, either employer or educational institutions.

(h) The respective education institutions/colleges or the employers shall not take any adverse action against any of the petitioners only on the ground of their failure to produce validity certificate and further appropriate action can be

taken only subject to result of verification claim, which would be lodged before the Scrutiny Committee, in accordance with the directions issued in this judgment."

5. Learned Counsel for the Petitioner pointed out that the order dated 16/11/2018 passed by the Caste Scrutiny Committee by which it has been directed that his earlier tribe certificate issued as belonging to "Mahadev Koli" instead of "Koli Mahadev" is not proper on the basis of aforesaid judgment in the matter of Prakash Bhople (supra). The Petitioner was granted liberty for obtaining new tribe certificate from the appropriate Competent Authority and seek validation of the same. However, it appears that by the impugned order dated 8/10/2020 passed by the Respondent No.3 - Sub Divisional Officer in application seeking grant of "Koli Mahadev" Schedule Tribe certificate was rejected.

6. Learned AGP appearing for the Respondent submitted that there is provision of challenging the impugned order dated 8/10/2020 and therefore, the Writ Petition be dismissed on the ground of existence of alternate remedy.

7. With the assistance of learned Counsel for the Petitioner and learned AGP, we have perused the record.

8. As far as objection regarding maintainability of the Writ Petition is concerned, we find that the impugned order dated 8/10/2020 has clearly violated directions of this Court as contained in the case of Prakash Bhople vs. Deputy Collector, Latur (supra). The order passed by the Sub-Division Officer is not in compliance with the directions of this Court.

9. The directions of this Court issued in paragraph 18 of the judgment Prakash Bhopale (supra) are very clear. The impugned order passed by the Scrutiny Committee is ex facie contrary to the principles laid down in the said judgment. In view of the said directions we set aside the order dated 8/10/2020 passed by the Respondent No.3 – Sub-Divisional Officer, and Competent Authority, Ichalkarnaji and direct that the Petitioner be issued tribe certificate as “Koli Mahadev, Scheduled Tribe“, within a period of eight weeks from today.

10. In view of aforesaid directions, Writ Petition is disposed of. No order as to costs.

[MADHAV JAMDAR, J.]

[R. D. DHANUKA, J.]