

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

981 WRIT PETITION NO.463 OF 2021

RAJASHRI MURLIDHAR BAVISKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner :Mr Golegaonkar Madhur A.
AGP for Respondents State: P. K. Lakhotiya
Advocate for Respondents No.5: Mr. M. D. Narwadkar

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 13th January, 2021

ORDER:

1. Caste claim of the petitioner as Tokre Koli Scheduled tribe is invalidated.

2. We have heard Mr. Golegaonkar, learned Advocate for the petitioner and learned A.G.P. for the State.

3. It appears that caste claim of real sister of the petitioner namely Kum. Bhagyashri Murlidhar Baviskar and the present petitioner was referred to the Committee and the Committee, under judgment dated 17th July, 2019, invalidated the caste claim of the present petitioner and Kum.Bhagyashri Murlidhar Baviskar.

4. Mr. Golegaonkar refers to the judgment dated 23.08.2019 in Writ Petition No. 9017 of 2019 filed by Kum. Bhagyashri Murlidhar Baviskar and submitted that the Division Bench has allowed the petition and directed to issue validity certificate to the petitioner therein namely Bhagyasri Murlidhar Baviskar. The Division Bench at the Principal Seat

has, in its judgment and order dated 23.08.2019, observed thus:

"6. If the claim of the petitioner is appreciated in the backdrop of the aforesaid observation, in our opinion, the order impugned passed by the Committee is not sustainable and the same is liable to be quashed and set aside.

Shyamkant Vasantrao Baviskar approached the Aurangabad Bench in Writ Petition No.383 of 1994 seeking quashing of the order for invalidation, who is the cousin brother of the father of the petitioner i.e. cousin uncle of the petitioner. The Bench at Aurangabad vide order dated February 3, 1994 has granted declaration in favour of Shyamkant as belonging to 'Tokre Koli' scheduled tribe which order still governs the field. Apart from above, cousin uncle Manohar and his son Aman are also validity holders.

7. In view of the above settled position, the Committee ought not to have rejected the claim of the petitioner as that of belonging to 'Tokre Koli' scheduled tribe.

8. As such, the order impugned passed by the respondent-committee dated July 17, 2019 is hereby quashed and set aside. The respondent-committee is directed to issue caste validity in favour of the petitioner forthwith as belonging to 'Tokre Koli' scheduled tribe.

9. The caste validity issued to the petitioner shall be subject to the outcome of the proceedings, if any, taken out seeking review of the judgment dated February 3, 1994 in Writ Petition No.383 of 1994."

5. In light of the above and for the reasons stated by the Division Bench at Principal seat under the judgment and order in Writ petition No. 9017 of 2019, dated 23.08.2019, we follow the same course and pass following order:

O R D E R

- (1) The order impugned passed by the respondent-committee dated 17th July, 2019 is hereby quashed and set aside. The respondent-committee is directed to issue caste validity in favour of the petitioner forthwith as belonging to 'Tokre Koli' scheduled tribe.
- (2) The caste validity issued to the petitioner shall be subject to the outcome of the proceedings, if any, taken out seeking review of the judgment dated 3rd February, 1994 in Writ Petition No.383 of 1994.
- (3) The petition stands disposed in above terms.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC