

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

177 WRIT PETITION NO.13775 OF 2021

SAMIDHA GOKUL UNHALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr.S.R. Barlinge, advocate for the petitioners.
Mr.P.S. Patil, Addl. GP for the respondent/State.
Mr.S.G. Karlekar, advocate for respondent no.3.

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CORAM : S.V. GANGAPURWALA
AND

S.G. DIGE, JJ.

DATE : 20th DECEMBER, 2021

PER COURT :-

. The caste claim of the petitioners as belonging to "Tokre Koli", Scheduled Tribe is invalidated.

2. Mr. Barlinge, learned advocate for the petitioners submits that the father of the petitioners namely Gokul is issued with the validity certificate of Tokre Koli, Scheduled Tribe. The paternal cousin aunt of the petitioners Sujata is also issued with the validity certificate of Tokre Koli, Scheduled Tribe. The cousin uncle of father of the petitioners namely Krishna had applied for validity certificate to the authority. His claim was invalidated. He filed appeal before the Revenue Commissioner. The Commissioner allowed the appeal filed by Krishna and set aside the order of invalidation. Subsequently, the show-

cause notice was issued to him for reopening the proceedings. Krishna filed Writ Petition no.2153/1995 before this Court. This Court under order dated 5th December, 2002 set aside the show cause notice and the order dated 06.06.1995 of the Commissioner, Tribal Development Nashik and upheld the validity issued to Krishna as per the order of Additional Revenue Commissioner, Nashik. The learned counsel submits that some of the documents, on which the Committee has relied to claim that entries are contra entries, were also subject matter of consideration in case of Sujata. The learned counsel relied upon the judgment of Division bench in the case of ***Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others*** reported in ***2010(6) Mh.L.J. 401***.

3. Mr.P.S. Patil, learned Addl. G.P. submits that there are contra entries on record. All pre-constitutional documents pertaining to petitioner's paternal side show caste as Hindu Koli, Hindu Suryawanshi Koli and Koli. The learned Addl. G.P. submits that the father of the petitioners so also the paternal cousin aunt of the petitioners Sujata are issued with validity certificates by the Committee, however, in their cases, pre-constitutional documents pertaining to the paternal side were suppressed. In absence thereof the validity certificates were issued. In case of Krishna, this Court has set aside the

show cause notice and order of Tribal Commissioner only on the ground that the power of review does not exists. In view of suppression of the contra entries, the claim deserves to be rejected. The learned Addl.G.P. submits that the show-cause notices are already issued to the father of the petitioners and paternal cousin aunt Sujata as to why their claims should not be invalidated.

4. We have considered the submissions.

5. It is not disputed that the father of the petitioners Gokul was issued with the validity certificate of Tokre Koli, Scheduled Tribe. The paternal aunt Sujata was also issued with the validity certificate of Tokre Koli, Scheduled Tribe. There appears to be some contra entries in the pre-constitutional documents pertaining to the petitioners' paternal side, however, some of the entries were considered but not all in case of Sujata.

6. The cousin grand father of petitioners Krishna had also applied for the validity certificate, same was negated. He filed appeal before the Commissioner. The Commissioner allowed the appeal and directed to issue validity certificate to Krishna of Tokre Koli, Scheduled Tribe. It appears from the file produced before

us that the show-cause notice was issued to Krishna and thereafter the Tribal Commissioner reopened the case of Krishna. He challenged the said notice in Writ Petition No.2153/1995. During pendency of the Writ Petition, it appears that the claim was invalidated. This Court under order dated 5th December, 2002 set aside the show cause notice and order of the Tribal Commissioner and restored the validity certificate. Perusal of the said judgment, it appears that this Court observed that the power of review does not exists.

7. Considering the validity certificate issued to the father of the petitioners and paternal cousin aunt of the petitioners, so also to cousin grand father of petitioners namely Krishna and further fact that the show-cause notices are issued to the validity holders relied by the petitioners, we pass the following order :-

ORDER

(i) The Committee shall issue the validity certificates to the petitioners of Tokre Koli, Scheduled Tribes immediately.

(ii) The said validity shall be subject to the decision that would be taken by the Committee in the proceedings reopened of the validity holders relied by the petitioners.

. Writ Petition is accordingly disposed of. No costs.

(S.G.DIGE, J.)

(S.V. GANGAPURWALA, J.)

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