

Kanchan V. Mayekar
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2204 OF 2018

Sanjaykumar Shankar Koli

..... Petitioner

VERSUS

**Deccan Education Society's
Fergusson College & Anr.**

..... Respondents

Mr.N.V.Bandiwadekar, a/w. Mr.Vinayak Kumbhar, i/b. Ms.Ashwini N.Bandiwadekar for the Petitioner.

Mr.V.M.Mali, A.G.P. for the Respondent – State.

**CORAM: R. D. DHANUKA AND
MADHAV J.JAMDAR, JJ.**
DATE : 8th JANUARY, 2021

P.C :-

The petitioner in the present petition filed under Article 226 of the Constitution of India is challenging the legality and validity of the order dated 18th January, 2017 passed by the respondent no.2 – Scheduled Tribe Certificate Scrutiny Committee (hereinafter referred to as “the Caste Scrutiny Committee”) by which his claim as belonging to the Koli Mahadev, Schedule Tribe was invalidated.

2. Mr. Bandiwadekar, learned counsel appearing for the petitioner pointed out pages 52 and 53 of the writ petition. He submitted that the said documents were issued on the basis of the school record of the petitioner's cousin grand-father and are of the pre-independence

period. He submitted that the said documents clearly show that the petitioner belongs to Koli Mahadev, Scheduled Tribe.

3. Mr. Bandiwadekar also pointed out orders dated 21st November, 2016 passed by this court in Writ Petition No.6296 of 2014 and Writ Petition No.952 of 2012 particularly the observations in paragraph (4) of the order passed in Writ Petition No.952 of 2012. Writ Petition No.952 of 2012 was filed by Shankar Vithal Koli, father of the present petitioner and Writ Petition No.6296 of 2014 was filed by the present petitioner. In said paragraph (4), this court while setting aside the earlier order of the Caste Scrutiny Committee and remanding back the matter observed that in the original documents, there was no discrepancy in regard to the date of admission in the school. The committee had given erroneous finding which led to perversity.

4. Mr. Bandiwadekar, the learned counsel for the petitioner pointed out the observations in the impugned order wherein it is observed that although the High Court has observed that there is no discrepancy in the date but there appears to be discrepancy in the date. He pointed out the observation of the Committee that the enquiry officer in the Vigilance Enquiry by inspecting original school register had given remark, that the word 'Mahadev' had been written in different ink. He

submitted that the Committee has perversely concluded that there was interpolation in the said document. He submitted that writing 'Mahadev' in different ink could not conclude that there was interpolation in the document. The findings of the Committee in the impugned order is perverse.

5. On the other hand Mr.Mali, learned A.G.P. appearing for the respondent no.2 produced for inspection of the Court, the original record of the proceedings of the Caste Scrutiny Committee and also produced coloured photocopies of the relevant portion of General Register Book No.2 (Years 1937 to 1950) and General Register Book No.3 (Years 1946 to 1964). He pointed out the entries regarding petitioner's cousin grand-father at serial no.131 in said Register Book No.2 which mentions his caste as "Hindu Koli". He pointed out the entry no.28 in said Register Book No.3 regarding said cousin grand-father of the petitioner and the caste mentioned is as "Hindu Koli Mahadev". He pointed out that the word 'Mahadev' is entered in different ink. He submitted that a bare perusal and comparison of the other entries on the said page as well as in the said column of caste and sub-caste clearly shows that said word 'Mahadev' is in different ink as well as in different handwriting. He submitted that there is no perversity in the impugned order.

6. With the assistance of the both the learned counsel, we have perused the record of this case.

7. Before considering the case of the petitioner it is to be noted that Mr.Bandiwadekar, the learned counsel for the petitioner has placed reliance only on the aforesaid two documents. The relevant portion of entry no. 131 in General Register No.2 (1937 to 1950) of Zilla Parishad Primary School, Shingandgao regarding petitioner's cousin grand-father is as follows :-

Register No.	Full Name	Caste and Sub-caste	Place of Birth	Date of Birth
131	Appasha Mukinda Koli	Hindu Koli	Shingadgaon	1-6-1941

The relevant portion of entry no.28 in General Register No.3 (1946-1964) of Zilla Parishad Primary School, Shingadgaon regarding petitioner's cousin grand-father is as follows :-

Register No.	Full Name	Caste and Sub-caste	Place of Birth	Date of Birth
28	Appasha Mukinda Koli	Hindu Koli Mahadev	Shingadgaon	1-6-1941

8. If both the aforesaid documents are compared with each other, the same clearly show that the word “**Mahadev**” is added in entry no.

28 in different ink. The handwriting appears to be different than the original entry of “**Hindu Koli**”. Before interpolation in the above entry 28 which records the caste as “Hindu Koli” is consistent with the entry 131 recording caste as “Hindu Koli”. It is thus clear that there is interpolation in entry 28 and therefore no reliance can be placed on the same for proving the claim of the petitioner as belonging to Koli Mahadev Schedule Tribe.

9. The Caste Scrutiny Committee in the impugned order has specifically observed that the petitioner to prove his case had placed reliance on the aforesaid sole document namely, entry at serial no.28 and the same is of doubtful nature and having interpolation. It is clear that the petitioner has failed to prove that he belongs to Mahadev Koli, Schedule Tribe.

10. It is also significant to note that when it is the case of the petitioner that the caste of his cousin grand-father is “Hindu Koli Mahadev”, the chart in the Vigilance Cell report on page 57 shows caste of the petitioner’s father as “Hindu Koli” which is subsequent to the entry of his cousin grand-father. It is clear that word ‘Mahadev’ was subsequently added in different ink and in different handwriting in the pre-independence document. The petitioner however could not

carry out interpolation in the school record of the father of the petitioner Mr.Shankar Koli for the subsequent period. If cousin grandfather of the petitioner was already Hindu Mahadev Koli even prior to independence, father of the petitioner would not have claimed his caste as 'Hindu Koli' after several years.

11. In our view, the finding of the Committee that there is interpolation and the word 'Mahadev' is added subsequently in entry no. 28 is not perverse. No interference with the finding of facts is thus warranted by this court in the impugned order in the present writ petition and the same is dismissed. No order as to costs.

12. At this stage, Mr.Bandiwadekar, the learned counsel for the petitioner seeks extension of interim relief for a period of 8 weeks. The interim relief which has been granted by this court on 2nd May, 2018 is continued for a period of eight weeks.

13. The Office is directed to return back the original record to the learned A.G.P.

[MADHAV J. JAMDAR, J.]

[R. D. DHANUKA, J.]