

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 561 OF 2021

Shriram S/o. Sopan Waghmare,
Aged about 45 years, Occ. : Nil,
R/o. 8, Saroj Apartment, Tagore
Nagar, Latur, Tahsil & District :
Latur.

.... **PETITIONER.**

// VERSUS //

1. The State of Maharashtra,
Through its Secretary, Tribal
Development Department,
Mantralaya, Mumbai- 400 032.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Amravati
Division, Amravati, through its
Member Secretary, Amravati,
Tahsil & District : Amravati.
3. ~~National Bank for Agriculture and~~ (Deleted)
~~Rural Development, having its~~
~~office at Bandra-Kurla Complex,~~
~~Bandra (East), Mumbai-51,~~
~~through its Chief General Manager.~~

.... **RESPONDENTS.**

Shri R.M.Pande, Advocate for Petitioner.
Ms N.P.Mehta, A.G.P. for Respondent Nos.1 & 2.

CORAM : SUNIL B. SHUKRE AND
ANIL S. KILOR, JJ.

DATED : SEPTEMBER 20, 2021

ORAL JUDGMENT : (Per : Sunil B. Shukre, J.)

1. Leave to delete Respondent No.3 is granted. The amendment be carried out forthwith.
2. Heard Shri R.M.Pande, learned counsel for the petitioner and Ms N.P. Mehta, learned A.G.P who appears for respondent Nos. 1 and 2 by waiving notice.
3. **RULE.** Rule made returnable forthwith.
4. Heard finally by consent of the learned counsel appearing for the parties.
5. Perused the reply and additional reply filed on behalf of the respondent Nos. 1 and 2.
6. The petitioner has heavily relied upon the birth extract dated 29th December 1943 showing that a male child, Maroti, was born to Nivrutti Jaywant Koli on 29th December 1943. This birth extract has been taken from the record of the births maintained by Pandharpur Municipal Council in the ordinary course of its duty.

7. This Court, by the order passed on 29th January 2021, had directed the Scrutiny Committee to examine the original birth record of the Municipal Council and file its affidavit before this Court.

8. In terms of the directions, respondent No.2 has filed its affidavit. In paragraph No.20 of the affidavit in reply it is stated that Pandharpur Municipal Council made the original record available before the Committee on 6th August 2021 and after verifying the record, the respondent No.2 found that the birth extract dated 29th December 1943 indeed showed that male child Maroti was born to Nivrutti Jaywant Koli whose caste has been recorded as “Mahadeo Koli”.

9. The original birth record has been produced before us by the learned A.G.P. We have gone through it and we are satisfied that what is stated in the additional affidavit in reply filed by respondent No.2 is correct. There is indeed an entry taken therein in the name of Nivrutti Jaywant Koli and this entry shows that on 29th December 1943 son Maroti was born to him and that caste of Nivrutti Mahadeo Koli is recorded as “Mahadeo Koli”. This exercise, ought to have been carried

out by the Scrutiny Committee when it passed the impugned order, but, it did not. But, at least now, after the direction was issued by this Court on 29th January 2021, the exercise has been completed by the Scrutiny Committee and by way of abundant precaution, we have also verified the correctness of the entries taken in the birth record as regards the birth of child Maroti to Nivrutti Jaywant Koli and the caste of Nivrutti Jaywant Koli and we have found the entries to be genuine, just as the Scrutiny Committee itself. The entry of 29th December 1943 is the oldest one. It is a pre-constitutional document and it does show that the caste of Nivrutti Jaywant Koli was 'Mahadeo Koli'. Nivrutti Jaywant Koli, there is no dispute, is the step-brother of Sopan Jaywant Koli, father of the petitioner. It would then follow that the document i.e. birth extract of 29th December 1943, which is based upon the original birth record maintained by Pandharpur Municipal Council, offers a conclusive proof of the caste of the petitioner and it is Mahadeo Koli, which has been declared to be Scheduled Tribe after 1950. These aspects of the matter have not been considered at all by the Scrutiny Committee and therefore, in our opinion, the impugned order deserve to be quashed and set aside. Hence, we pass the following order:

- i) The impugned order is hereby quashed and set aside.

- ii) Respondent No.2-Scheduled Tribe Certificate Scrutiny Committee, Amravati is directed to issue Tribe Validity Certificate to the petitioner as he belonging to Scheduled Tribe “Mahadeo Koli”, within four weeks from receipt of the order.
- iii) Liberty is granted to the petitioner to move his employer-National Bank for Agriculture and Rural Development for reinstatement after the Tribe Validity Certificate is granted to the petitioner in compliance with this judgment and order.
- iv) The original record is returned to the learned A.G.P.

Rule accordingly. No order as to costs.

(ANIL S. KILOR, J)

(SUNIL B. SHUKRE, J.)

RRaut..