

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

WRIT PETITION NO.577 OF 2022

1. Madhura Ganesh Naikwade,
Age : 20 years, Occu. Student,
R/o Jeba Pimpri, Tq. &
District Beed. ... **Petitioner**

Versus

1. The State of Maharashtra,
Through it's Secretary,
Tribal Department,
Mantralaya, Mumbai - 32.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad
Through its Deputy Director (R).
3. The Commissioner and
Competent Authority,
State CET Cell, Maharashtra State,
Mumbai.
(Controller of Admission Process),
8th Floor, New Exelsior Building,
AK Marg, Fort, Mumbai-1. ... **Respondents**

WITH

CIVIL APPLICATION NO.1191 OF 2022
IN WRIT PETITION NO.577 OF 2022

- Mr. Parmeshwar Bhagwan Khokle,
Age : 44 years, Occu. Secretary,
Original for Rights of Tribal,
R/o Flat No.11, Vadesev Appt.,
Sutgiriuni Chowk, Garkheda,
Aurangabad. ... **Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Department,
Mantralaya, Mumbai - 32.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad
Through its Deputy Director (R).
3. The Commissioner and
Competent Authority,
State CET Cell, Maharashtra State,
Mumbai.
(Controller of Admission Process),
8th Floor, New Exelsior Building,
AK Marg, Fort, Mumbai-1.
4. Madhura Ganesh Naikwade,
Age : Major, Occu.: Student, ... Respondents

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Advocate for Petitioner : Mr. Jadhavar Pratap V.

AGP for Respondents-State : Mr. A. R. Kale.

Advocate for Applicant/Intervenor : Mr. S. N. Lale Yelwatkar.

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**CORAM : R. D. DHANUKA, AND
S. G. MEHARE, JJ.**

DATE : 04.04.2022

ORAL JUDGMENT (PER R. D. DHANUKA, J.) :-

1. Rule. Learned AGP waives service of notice for respondents. Rule is made returnable forthwith and heard finally by the consent of the parties.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks writ of certiorari for quashing and setting aside the impugned order dated 02.12.2021 passed by respondent No.2-Committee invalidating the caste claim of the petitioner as "Koli Mahadev Scheduled Tribe".

3. It is the case of the petitioner that the petitioner belongs to "Koli Mahadev Scheduled Tribe" and was issued a tribe certificate by the competent authority. The concerned authority forwarded the tribe certificate of the petitioner to respondent No.2-Committee for verification. On 20.11.2021 the Vigilance Cell conducted an inquiry in the matter of petitioner's Tribe claim. On 30.11.2021, the petitioner submitted her explanation before the Scrutiny Committee. It is the case of the petitioner that without considering the validity certificate as well as entire set of documents, the Scrutiny Committee passed the impugned order on 02.12.2021 thereby invalidating the caste claim of the petitioner as "Koli Mahadev Scheduled Tribe". Learned counsel for the petitioner invited our attention to the caste certificate issued in favour of the petitioner by the

competent authority, various school records and the genealogy. It is submitted by the learned counsel that the Vigilance Inquiry Officer also has recorded findings in favour of the petitioner. He relied upon the letter addressed by the Tahsildar to the Vigilance Officer. He would submit that the said letter of the Tahsilar also would assist the case of the petitioner.

4. With the assistance of the learned counsel for the parties, we have perused the impugned order passed by the Scrutiny Committee and also perused the Vigilance Report. In respect of document at page No.52, at serial Nos.8, 9 and 11, the Vigilance Officer had raised doubt and more particularly the caste mentioned in case of Kailas Dnyanoba Naikwade, Pramila Dnyanoba Naikwade and Dhanraj Tukaram Naikwade and observed that there appears to be interpolation by inserting the word "Mahadev Koli" after the word "Hindu".

5. The Scrutiny Committee in the impugned order at page No.93 of the petition, however has recorded a categorical findings in respect of those three entries holding that the words "Mahadev Koli" has been inserted subsequently after the word "Hindu". The Scrutiny Committee has also recorded the finding

of the conspiracy against the School Management.

6. Perusal of the record further indicates that at page No.91 (internal page 5 of the impugned order) the Scrutiny Committee has framed four issues. Insofar as the issue No.3 is concerned, no findings are recorded by the Scrutiny Committee in the impugned order.

7. In our view, since the Scrutiny Committee has recorded a finding that the words "Koli Mahadev" has been subsequently written after the word "Hindu" in respect of those three entries in case of Kailas Dnyanoba Naikwade, Pramila Dnyanoba Naikwade and Dhanraj Tukaram Naikwade which findings is different than the *prima facie* findings recorded by the Vigilance Officer, the Scrutiny Committee ought to have obtained expert opinion and without recording any evidence could not have recorded such finding of interpolation conclusively. Similarly, the Scrutiny Committee also could not have recorded any findings of the conspiracy against the Management even if that would be correct, without recording any reasons.

8. The Scrutiny Committee having framed four issues, the

Scrutiny Committee ought to have recorded findings on all the issues framed and not on some of the issues which according to the Scrutiny Committee could be sufficient to be dealt with. In this case, the Scrutiny Committee has not recorded any reasons though frame issue whether petitioner has taken any advantage of the caste certificate.

9. Though under the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 read with rules, the opinion of this Vigilance Inquiry Officer may not be conclusively binding on the Scrutiny Committee, if the Scrutiny Committee seeks to take a different view or to reject the opinion/recommendation of the Vigilance Inquiry Officer, reasons have to be recorded while rejecting such opinion/recommendation given by the Vigilance Inquiry Officer.

10. We are accordingly of the opinion that the impugned order passed by the Scrutiny Committee is required to be quashed and set aside with a direction to remand the matter

back to the Scrutiny Committee for considering the matter afresh and shall also deal with the directions issued and observations made in this order.

11. The impugned order dated 02.12.2021 passed by respondent No.2-Committee is accordingly quashed and set aside. The caste claim made by the petitioner is restored before respondent No.2-Committee. Respondent No.2-Committee shall consider the matter afresh in accordance with law without being influenced by the observations made and the conclusion drawn in the impugned order dated 02.12.2021.

12. Insofar as the contra entries produced on record by the Vigilance Officer is concerned, the Scrutiny Committee shall verify those documents also in accordance with law while passing a fresh order.

13. If the Scrutiny Committee seeks to differ with the *prima facie* observations made by the Vigilance Inquiry Report, the Scrutiny Committee shall follow the procedure prescribed under the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation

of Issuance and Verification of) Caste Certificate Act, 2000 and the Rules before recording any finding on the *prima facie* opinion rendered by the Vigilance Inquiry Officer.

14. The Scrutiny Committee shall pass a fresh order within a period of twelve (12) weeks from the date of communication of this order after granting personal hearing to the petitioner.

15. The original records produced by the learned AGP for perusal of this Court shall be returned to respondent No.2-Committee within a period of three (3) days from today.

16. The order that would be passed by respondent No.2-Committee shall be communicated to the petitioner within a period of one (1) week from the date of passing such order.

17. If respondent No.2-Committee is of the view that the petitioner has made out a case for validating the caste claim made by the petitioner, caste validity certificate should be issued in favour of the petitioner within a period of one (1) week from the date of passing such order. If the order is adverse against the petitioner, the petitioner would be at liberty to file appropriate proceedings.

18. Writ Petition is disposed off in the aforesaid terms. Rule is made absolute accordingly. In view of the disposal of the writ petition, Civil Application No.1191 of 2022 does not survive and is accordingly disposed off. No order as to costs. Parties to act on the authenticated copy of this order.

(S. G. MEHARE, J.)

(R. D. DHANUKA, J.)

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