

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

904 WRIT PETITION NO.3944 OF 2022

**MALLIKARJUN MADIWALAPPA KORBU
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr.Rodge Pratap G. And Mr. Rodge
Krishna P.

AGP for Respondents-State : Mr.S.P.Tiwari

...

**CORAM : RAVINDRA V. GHUGE, &
ANIL L. PANSARE, JJ.**

DATE : 23rd JUNE, 2022.

PER COURT :

1. We have considered the submissions of the learned Advocates for the respective sides and perused the judgments cited. In the light of the above, the learned Advocate for the petitioner submits that he would canvass only prayer Clause 'C' in this petition and depending on the decision of the petitioner's validity claim proceedings, he would espouse his cause of action as against his termination dated 15.05.2014 since the validity certificate based on an erroneous tribe certificate, had lead to his termination.

2. We have perused the impugned order dated 29.03.2017, which has been challenged by the petitioner on 14.02.2022. There is no dispute that the entry No. 29 in the Constitutional entry indicates

his tribe as 'Koli Mahadev' and not 'Koli Mahadeo'. We have verified the said spelling from the Constitution (Scheduled Tribes) Order 1950, (CO-22) Act, Part IX, Maharashtra entry at Serial No. 29. The certificate produced by the petitioner for seeking validation carries the spelling 'Koli Mahadeo'. At the initial stage in the proceedings, the three members Committee noticed this error and directed the petitioner to obtain a proper certificate with leave to tender the same for validation along with a new proposal.

3. The learned Advocate for the petitioner submits that he would not debate on the spelling as is required at Clause 29, in the order referred to above. He, therefore, is agreeable to get the corrected certificate by following the due procedure.

4. He seems to be aggrieved by the fact that the Committee closed the proceedings and asked him to once again route his proposal, as was done earlier, through his employer. He has been terminated from service on 15.05.2014 since it was revealed that the validity certificate was based on the error which was committed by the then Committee. He submits that the then Committee also tendered apology. The said apology is dated 23.05.2014 issued by the Divisional Caste Validation Committee, Latur No. 2, addressed to the employer of the petitioner. Yet, the termination of the petitioner has

not been recalled and he now intends to agitate upon the same by raising an industrial dispute after his fate is decided in the pending proceedings before the present Committee under The Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis) Nomadic Tribes, Other Backward Clases and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

5. In short, the grievance of the petitioner is that, vide the impugned order, the entire proceedings have been closed down and the petitioner is now unable to approach his former employer for preparing a new proposal.

6. We find that the petitioner's grievance stand answered in the judgment delivered by this Court on 14th August, 2014 in a large group of petitions, in Writ Petition No. 4536 of 2013 filed by Prakash Subhash Bhople Vs. Deputy Collector (General) Latur, District Latur and the connected matters.

7. For the sake of clarity, we are reproducing Clauses 18 (d,e,f,g & h) from the said judgment, as under :

“(d) The concerned Sub Divisional Officer/Competent Authority, on receipt of the applications by respective petitioners, together with

attested/authenticated photostat copy of the caste/tribe certificate issued earlier, shall proceed to issue caste/tribe certificate in prescribed proforma certifying that respective petitioners belong to 'Koli Mahadev', Scheduled Tribe. The Sub Divisional Officers/ Competent Authority shall issue certificate within a period of four weeks from the date of receipt of the applications.

(e) On receipt of Tribe Certificates, respective petitioners, shall approach the concerned Scrutiny Committees with a proposal in prescribed proforma requesting the Scrutiny Committees to verify the Tribe Certificate and consider their applications for issuance of validity certificates. The respective petitioners shall approach the Scrutiny Committee within a period of eight weeks from the date of receipt of the caste certificate from the competent authority.

(f) On receipt of the proposal from respective petitioners, the Scrutiny committee shall proceed to verify the caste/tribe certificate and take appropriate decision after following procedure prescribed under law in respect of issuance of validity certificates, as expeditiously as possible, preferably within a period of one year from the date of receipt of the proposal/application.

(g) The Scrutiny Committee shall accept the proposals directly and shall not refuse to accept the proposals on the ground that same have not been routed through proper channel, either employer or educational institutions.

(h) The respective education institutions/colleges or the employers shall not take any adverse action against any of the petitioners only on the ground of their failure to produce validity certificate and further appropriate action can be taken only subject to result of verification claim, which would be lodged before the Scrutiny Committee, in accordance with the directions issued in this judgment."

8. The petitioner's case can be squarely covered under Clause 'g' reproduced above.

9. The learned Advocate for the Committee graciously submits, on instructions, that such proceedings in the case of the petitioner were at a very initial stage. The committee would not, in the facts and circumstances recorded above, insist that a fresh proposal be tendered. We are also of the same view.

10. In view of the above, this petition is partly allowed only to the extent of deleting the following 'words' in the last sentence of the impugned order viz. "नव्याने प्रस्ताव".

11. The petitioner shall approach the said Committee for seeking return of the said caste tribe certificate. The petitioner shall, therefore, proceed to follow the procedure, as is required in law, for obtaining the certificate with proper spelling and submit the same to the Competent Committee in case No. TCSC/OSD/SER/93/2011, name of the applicant being Korbu Mallikarjun Madiwalappa. After such certificate is tendered to the Committee, we expect that the Committee will decide the said proposal within a period of six months. The said authority shall issue the correct certificate within 30 days from the date of the application.

12. Needless to state that, after the decision of the Committee and depending upon the result, the petitioner would be at liberty to raise an industrial dispute with relation to his termination dated 15th May, 2014.

(ANIL L. PANSARE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

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