

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

922 WRIT PETITION NO. 4796 OF 2022

Ashok S/o. Rupa Koli, **...PETITIONER**
Age-59 years, Occu-Pensioner,
R/o. Dinkar Nagar, Old Asoda Nagar,
Jalgaon, Tq. & Dist. Jalgaon

VERSUS

1. The State OF Maharashtra, **...RESPONDENTS**
Department of Tribal Development,
Mantralaya, Mumabai-32
Through its Secretary
2. The Scheduled Tribe Certificate Scrutiny,
Committee, Nandurbar Division, Nandurbar,
Tq. & Dist. Nandurbar,
Through its Member Secretary
3. The Divisional Controller,
Maharashtra State Road Transport
Corporation Ltd.
Jalgaon Division, Jalgaon
Tq. & Dist. Jalgaon

Mr. Sushant C. Yeramwar, Advocate for the petitioner
Mr. K. N. Lokhande, AGP for the respondents/State

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

DATE : 04TH May, 2022

JUDGMENT:

1. Rule.

2. Heard the learned counsel for the parties.

3. The learned AGP waives service of notice for the respondents/State and Mr. Manoj Shinde, learned counsel waives service of notice for respondent No.3.

4. By this petition filed under Article 226 of the Constitution of India the petitioner has prayed for writ of certiorari for passing and setting aside the ex-parte order dated 12-11-2021 passed by respondent No.2-Committee invalidating the tribe claim of the petitioner as belonging to 'Tokare Koli Scheduled Tribe'.

5. It is the case of the petitioner that without giving an opportunity of being heard to the petitioner by respondent No.2-Committee the tribe claim of the petitioner is invalidated. The learned AGP for the respondent Nos. 1 and 2 is not in a position to dispute the said statement made by the learned counsel for the petitioner across the bar and made in the writ petition.

6. The impugned orders passed by the respondent No.2-Committee invalidating the tribe claim of the petitioner is in violation of the

principle of natural justice and thus deserves to be quashed and set aside. The Tribe claim of the petitioner is restored to file before the respondent No.2-Committee for deciding the matter afresh without being influenced by the observations made and the conclusions drawn in the impugned order.

7. The petitioner is directed to remain present before respondent No.2-Committee on 12-05-2022 at 11.00 am without fail and shall not seek unnecessary adjournment. Respondent No.2-Committee shall decide the matter afresh and in accordance with law. Respondent No.2-Committee shall make an endeavour to dispose of the caste claim of the petitioner on or before 31-08-2022. The order that would be passed by the respondent No.2 shall be communicated to the petitioner within one week from the date of passing order. If the order is in favour of petitioner, the petitioner shall be issued tribe validity certificate by the respondent No.2-Committee within one week from the date of passing of the order. If the order is against the petitioner, the petitioner would be at liberty to file appropriate proceedings.

8. In view of the ex-parte decision taken by the respondent No.2-Committee whereby invalidating the tribe claim of the petitioner, respondent No.3

has issued termination order dated 17-02-2022 of the petitioner 11 days prior to the date of retirement by superannuation. Since this court has set aside the impugned order dated 12-11-2021 passed by the respondent No.2-Committee and has remanded the matter back, impugned termination order dated 17-02-2022 issued by the respondent No.3 is also quashed and set aside.

9. If the petitioner succeeds before respondent No.2-Committee and is issued caste validity certificate by respondent No.2, same shall be produced for perusal of respondent No.3 with the copy thereof within one week from the date of issuance of such certificate. In that event the respondent No.3 shall clear all the arrears of the petitioner of retirement benefits within four weeks thereafter. The petitioner would be at liberty to file additional documents on the first day of hearing and if the documents are submitted by the petitioner, respondent No.2 committee shall consider those documents. If any vigilance enquiry report is required to be obtained, same shall be obtained immediately.

10. The petition is allowed in above terms. Rule is made absolute. No order as to costs.

11. Parties to act upon authenticated copy of this order.

12. This court has not gone into the merits of the caste claim made by the petitioner. All the contentions and merits are kept open.

[S. G. MEHARE, J.]

[R. D. DHANUKA, J.]

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