

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

31 WRIT PETITION NO.7607 OF 2019

**MANORAMA SHAHAJI KOLI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr. Shirrurkar K. T.
AGP for Respondent Nos. 1 to 3 : Mrs. V. N. Patil-Jadhav

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 17.08.2022.

PER COURT :

We have heard both the sides finally at the stage of admission.

2. The petitioner is aggrieved by rejection of her application seeking tribe certificate, by the respondent-competent authority by the order dated 26.06.2018 and dismissal of her appeal preferred under Section 5 of the 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 by the scrutiny committee.

3. The petitioner claims to be 'Koli Mahadev'.

4. She had annexed her school record as also the school record of her cousins and a validity certificate issued in the name of one Lalasaheb Rajaram Kamble stated to be her real cousin uncle.

5. The competent authority apparently discarded the school record, without assigning any reason but purportedly because it was of recent origin.

6. As far as the validity granted in favour of Lalasaheb Kamble, the competent authority discarded the circumstance on the ground that in a panchnama conducted by the Circle Officer dated 13.06.2014 it was found that there was no relation between the petitioner and Lalasaheb.

7. In an appeal under Section 5 the Caste Scrutiny Committee has dismissed the appeal additionally on the ground that Lalasaheb in his proceeding had not shown the genealogy including the branch of petitioner's grand father Hariba.

8. It is trite that the competent authority while undertaking proceeding as prescribed under Section 3 and 4 of the Act read with Rules framed under the Act has to be *prima faice* satisfied about the entitlement of an applicant to have a tribe/caste certificate. Validity certificate of a kin is one of the documents which are supposed to be examined by the competent authority. Even in the matter of **Archana Chandrakant Jamdar Vs. State of Maharashtra in Writ Petition No. 1521/2016**, decided on 8.2.2016 a coordinate bench of this Court had held that only a *prima facie* evidence is what is needed to be gone into at that stage.

9. When the validity certificate of Lalasaheb was on the record coupled with his affidavit giving a genealogy *inter alia* showing the petitioner as the grand daughter of his real paternal uncle Hariba, to our mind this piece of evidence was sufficient to record a *prima facie* observation of petitioner being a scheduled tribe. The only reason assigned for discarding it is a panchnama conducted by a circle officer. When a sworn affidavit was before the competent authority, he could not have brushed it aside so lightly by referring to a panchnama conducted by the Circle Officer. Therefore, apart from the school record even this validity certificate of Lalasaheb was sufficient enough to demonstrate petitioner's entitlement to have a tribe certificate.

10. The Scrutiny Committee in the appeal under Section 5 has come out

with an additional ground mentioning that in the Lalasaheb's file, the genealogy furnished by him did not disclose the other three branches including the one of petitioner's grand father Hariba. That may be a fact. However, firstly, there is nothing on record to demonstrate that the petitioner was put to notice about this circumstance which the scrutiny committee was intending to use against her.

11. Besides, *prima facie*, at the most it can be said that the genealogy furnished by Lalasaheb was insufficient. Whether and to what extent, the petitioner would be able to establish relation between her and Lalasaheb cannot be prejudged at a preliminary stage of considering her application under Section 4.

12. Needless to state that any certificate granted under the Act is subject to its validation at a subsequent stage.

13. The Writ Petition is allowed. The impugned orders are quashed and set aside. The competent authority shall now issue tribe certificate to the petitioner within four weeks from today.

(SANDEEP V. MARNE J.)

(MANGESH S. PATIL, J.)

mkd/-