

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11901 OF 2019

Sumit Ramesh Tambule

Petitioner

Versus

The State of Maharashtra and others

Respondents

WITH

WRIT PETITION NO.11919 OF 2019

Amar Ramesh Tambule

Petitioner

Versus

The State of Maharashtra and others

Respondents

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Mr. Anand Chaware, Advocate holding for Mr. S.B. Madde,
Advocate for the petitioners.

Mr. A.S. Shinde, A.G.P. for respondent Nos.1 and 2.

Mr. D.P. Deshpande, Advocate for respondent No.3.

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**CORAM : C.V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.**

Order reserved on : 22 JULY 2022

Order Pronounced on : 15 SEPTEMBER 2022

ORDER (PER SANDIPKUMAR C. MORE, J.) :

(Signed judgment is pronounced by Sandipkumar C. More, J. as per clause (i) of Rule 1 of Chapter-XI of Bombay High Court Appellate Side Rules, 1960 as C.V. Bhadang, J. is sitting at Mumbai).

Both the petitioners in these petitions have challenged the order dated 31.08.2019 passed by the Scheduled Tribe Certificate Scrutiny Committee i.e. present respondent No.2, whereby the caste certificates of the petitioners belonging to Hindu Mahadev Koli Scheduled Tribe, are invalidated and cancelled. It is significant to note that the impugned order dated 31.08.2019 is a common order passed in respect of both the petitioners.

2. On perusal of the impugned order, it appears that the concerned colleges of the petitioners had forwarded the proposals of the petitioners for caste validation to respondent No.2 Scrutiny Committee. During pendency of those proposals, this Court had directed the said Scrutiny Committee to dispose of the proposals of the petitioners in a time bound manner. Further, it appears that both the petitioners are members of one and the same family and they are real brothers. The Scrutiny Committee decided to consider their proposals jointly. The petitioners had also submitted relevant documents to the Scrutiny Committee and the Vigilance Cell had made inquiry in respect of all other blood

relatives of the petitioners and also in respect of the residential place, occupation, customs, deities, traditions, festivals, social culture and surnames related to the petitioners and thereafter on the basis of inquiry report from the Vigilance Cell, respondent No.2 Scrutiny Committee came to the conclusion that the claim of the petitioners of being of Hindu Mahadev Koli Scheduled Tribe is not supported by documents on record and the affinity test.

3. Learned Counsel for the petitioners submits that respondent No.2 Scrutiny Committee has passed the impugned order without considering the valuable documents submitted by the petitioners showing that they belong to Hindu Mahadev Koli Scheduled Tribe and has given unnecessary weightage to the report of the Vigilance Cell, which is adverse to the petitioners.

4. On the contrary, learned A.G.P. strongly opposed the submissions made on behalf of the petitioners and supported the impugned orders. He pointed out that the caste certificates and the validity certificates issued to the petitioners were based on the certificate of Caste Validation Committee issued to their father

Ramesh Narayanrao Tambule. However, it was revealed in the report of Vigilance Cell that in the school record of Ramesh Narayanrao Tambule the word “Mahadev” in the caste column was found to be written with different ink and in different handwriting. Same was the case in respect of Narayan Rama Tambule, who appears to be grandfather of the petitioners. He thus submits that the caste certificate and validity certificate of the father of the petitioners were in fact obtained by playing fraud. Therefore, respondent No.2 Scrutiny Committee vide notice dated 04.09.2019 had asked Ramesh Narayan Tambule i.e. father of present petitioners to show cause as to why his caste validity certificate should not be cancelled. Learned A.G.P. further submitted that despite receiving the said notice, father of the petitioners did not submit any explanation, and therefore, second reminder notice dated 15.07.2022 has been issued by respondent No.2 Scrutiny Committee to the father of petitioners.

5. From the order itself, it is evident that the caste validity certificates of the petitioners have been cancelled by respondent No.2 Scrutiny Committee mainly on the ground that father of the petitioners had obtained his caste certificate and

validity certificate by playing fraud. Thus, when the caste certificate and caste validity certificate of the father of the petitioners on the basis of which the subsequent certificates of the petitioners are issued, is under challenge, then it would be proper to decide the validity of caste validity certificates of the petitioners alongwith validity of caste certificate and caste validation certificate of their father Ramesh Narayan Tambule simultaneously. Therefore, we are of the opinion that the claim of the petitioners that they belong to Koli Mahadev Scheduled Tribe can be decided alongwith the show cause notice dated 15.07.2022 which is in respect of validity of caste validation certificate of the father of these petitioners i.e. Ramesh Narayanrao Tambule. Hence, we pass the following order.

ORDER

- (i) Both the petitions are hereby partly allowed.
- (ii) The impugned order and decision of respondent No.2 Scrutiny Committee dated 31.08.2019 invalidating thereby claim of the petitioners, is quashed and set aside and caste claim of the petitioners is restored before respondent No.2 Committee for deciding the

matter afresh without being influenced by its earlier observations made in the impugned order dated 31.08.2019.

- (iii) The said caste claim of the petitioners be heard and decided alongwith show-cause notice dated 15.07.2022 issued by the Scrutiny Committee to Ramesh Narayanrao Tambule i.e. father of the present petitioners, expeditiously and within six months from the date of communication of this order.
- (iv) Respondent No.2 Scrutiny Committee shall give sufficient opportunity of hearing to the petitioners as well as their father Ramesh Narayanrao Tambule and for submitting additional documents, if any. The petitioners are directed not to seek any unnecessary adjournment before the respondent No.2 Scrutiny Committee and shall co-operate with the Members of the Committee, so that their claim can be decided within the prescribed time limit of six months.
- (v) The petitioners are directed to remain present before the Scrutiny Committee on 26th September 2022 at 11.00 a.m.

- (vi) The learned A.G.P. is directed to communicate this order to the Scrutiny Committee for information and necessary compliance.
- (vii) We have made it clear that we have not recorded any finding on merit in respect of the caste claim of the petitioners and all the questions of facts and law are kept open for to be decided by respondent No.2 Scrutiny Committee.
- (viii) Writ petitions are disposed of in aforesaid terms.
- (ix) The interim relief granted by this Court vide order dated 30.09.2019 to continue during pendency of the caste claim of the petitioners before the Scrutiny Committee.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.