

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 14489 OF 2021**

Kum. Tejas D/o Dinesh Chavan .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Smt. Vaishali B. Suryawanshi, Advocate for the Petitioner.
Shri S. B. Yawalkar, Addl.G.P. for the Respondent Nos. 1 and 2.
Shri Kashyam A. Shinde, Advocate h/f Shri M. D. Narwadkar,
Advocate for the Respondent No. 3.

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

CLOSED FOR ORDERS ON : 30.08.2022
ORDER PRONOUNCED ON : 07.09.2022

FINAL ORDER (*Per Sandeep V. Marne, J.*) :-

. By way of present petition, petitioner assails the decision dated 06 December 2021 of the Caste Scrutiny Committee, Nandurbar, by which petitioner's caste claim for 'Tokre Koli' (Scheduled Tribe) has been rejected.

2. The petitioner was issued with the caste certificate dated 03.11.2017 for 'Tokre Koli' (Scheduled Tribe). A proposal for validity of her tribe certificate was submitted before the Scrutiny Committee through the Principal of Nutan Kanishtha Vidyan Mahavidhyalaya, Dondaicha, Tq. Shindkheda, Dist. Dhule. Vigilance cell conducted its enquiry and submitted report on 07.08.2018. She was supplied copy of the report of vigilance cell and her explanation was called for on 20.10.2021. A hearing was conducted by the Committee on 10.11.2021. In the meanwhile, she appeared for Common Entrance Test examination for

Bachelor of Laws. Since the Committee failed to decide the claim, she filed Writ Petition No. 13459 of 2021, in which order was passed on 04.12.2021 directing the Committee to decide her caste claim. This is how order came to be passed by the Scrutiny Committee on 06 December 2021 rejecting the caste claim of the petitioner.

3. Smt. Vaishali B. Suryawanshi, learned counsel appearing for the petitioner submits that the Scrutiny Committee has erroneously considered the entries relating to the caste of Hirya Daulat Koli, Sukdev Daulat Koli and Shankar Daulat Koli as 'Koli, 'Hindu Koli' and 'Hindu' respectively, even though their respective record contained entries of 'Hindu Tokre Koli'. Relying on the 2011 census report, she submits that the caste in respect of Santosh Shankar Chauhan has been indicated as, "Scheduled Tribe". She further submits that 2011 census data has been carried forward on the basis of census data of the earlier years. Relying on the decision in the case of **Kum. Madhuri Patil Vs. Additional Commissioner Thane and others** reported in ***AIR 1995 SC 94***, she submits that Kolies are fisherman by caste and profession and reside mostly in Maharashtra's coastal area. She submits that petitioner's forefathers were neither engaged in fishing profession, nor were they residing in coastal areas. She submits that the petitioner's forefathers have always been in North-Eastern area of the Dhule district. She further submits that, 'Koli' is a generic term, which includes 'Tokre Koli' as well.

4. Per contra, Mr. Yawalkar, learned Additional Government Pleader for the respondent Nos. 1 and 2 has supported the order passed by the Scrutiny Committee. He submits that, there are

consistent original entries of 'Koli' in the records of paternal side relatives of the petitioner. He would submit that since 'Koli' been included in Other Backward Class category, the petitioner's claim of the Scheduled Tribe has rightly been rejected. He submits that preconstitutional entries in respect of relatives of the petitioner are 'Koli'. He further submits that on account of interpolation in the school records of Hirya Daulat Koli, Sukdev Daulat Koli and Shankar Daulat Koli, the Scrutiny Committee has rightly rejected the concerned entries. Relying on the judgment of the Constitution Bench of the Supreme Court in the case of ***State of Maharashtra Vs. Milind and others*** reported in **2001(1) SCC 4**, Mr. Yawalkar would submit that it is impermissible to decide or declare that any tribe or tribal community or part of or group within any tribe or tribal community is included in the general name even though it is not specifically mentioned in the concerned Entry in the Constitution (Scheduled Tribes) Order, 1950.

5. Having heard the counsel for the parties and after having gone through the records, we find that the sheet anchor of Petitioner's case was entries of 'Hindu Tokre Koli' made in the records of Hirya Daulat Koli, Sukdev Daulat Koli and Shankar Daulat Koli, which are very old and some are even pre-constitutional entries. The Committee has proceeded to ignore them on the basis of findings recorded in the Vigilance Cell enquiry that there are interpolations in difference ink and handwriting in respect of the said entries.

6. Vigilance report was supplied to the petitioner for her response. She submitted detailed reply running into 30 pages to the report of the vigilance cell. However, in the entire reply, she

has failed to deal with the observations of the vigilance cell about overwriting in the school record. Thus the overwriting in the school record of Hirya Daulat Koli, Sukdev Daulat Koli and Shankar Daulat Koli has not been disputed by the petitioner.

7. Finding recorded in the vigilance cell report with regard to interpolations in the entries of Hirya Daulat Koli, Sukdev Daulat Koli and Shankar Daulat Koli were glaring and the Petitioner ought to have dealt with such findings in her reply. However silence maintained by her in respect of such vital findings would raise presumption that the interpolations are admitted.

8. The committee has thus rightly ignored the interpolations made in respect of school record of the Hirya Daulat Koli, Sukdev Daulat Koli and Shankar Daulat Koli and has taken into consideration the original entries of 'Koli', 'Hindu Koli' and 'Hindu' in respect of their records. The oldest entry is in respect of Hirya Daulat Koli dated 01.07.1942. On the basis of silence maintained by her in the reply, the committee came to the conclusion that preconstitutional entry of 'Koli' in the school record of Hirya Daulat Koli completely demolishes caste claim set up by the petitioner. The subsequent original entries (before interpolation) of Sukdev Daulat Koli and Shankar Daulat Koli, of 'Hindu Koli' and 'Hindu' which are made on 18.06.1954 and 13.06.1957 respectively further supports the fact that the petitioner does not belong to 'Tokre Koli' Scheduled Tribe.

9. In view of the failure of the petitioner to deal with the most vital aspect of interpolations made in respect of the school records of her relatives, we find that the Committee has rightly

rejected the claim of the petitioner. In view thereof all other issues raised by Smt. Suryawanshi, learned advocate have been rendered academic and we need not burden this order by dealing with the same in detail. However, we would summarily reject the submission of Smt. Suryawanshi that 'Koli' is a generic term, which includes 'Tokre Koli' also. In this regard, reliance of Mr. Yawalkar on the Judgment of Apex Court in ***Milind*** (supra) is apposite. The Apex Court has held:

1. It is not at all permissible to hold any enquiry or let in any evidence to decide or declare that any tribe or tribal community or part of or group within any tribe or tribal community is included in the general name even though it is not specifically mentioned in the concerned Entry in the Constitution (Scheduled Tribes) Order, 1950.

2. The Scheduled Tribes Order must be read as it is. It is not even permissible to say that a tribe, sub-tribe, part of or group of any tribe or tribal community is synonymous to the one mentioned in the Scheduled Tribes Order if they are not so specifically mentioned in it.

10. In the result we do not find any error being committed by the Scrutiny Committee while rejecting the caste claim of the Petitioner.

11. Petition is thus devoid of any merits. The same is dismissed without any order as to costs.

[SANDEEP V. MARNE, J.]

[MANGESH S. PATIL, J.]