

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9736 OF 2022

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|--------------------------------------|---|------------------------|
| 1. Mayur s/o Maruti Taral (Koli). |] | |
| 2. Rutuja d/o Ashok Taral (Koli). |] | |
| 3. Rushikesh s/o Ashok Taral (Koli). |] | |
| 4. Diksha d/o Dilip Koli (Taral). |] | |
| 5. Saurabh s/o Dilip Koli (Taral). |] | ...Petitioners. |

Versus

The State of Maharashtra & Others. **..Respondents.**

Mr. Prafullasingh H. Patil i/b Vaishali B. Suryawanshi for the Petitioners.
Mr. V. M. Mali, AGP for the Respondent-State.

CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ.

Date : December 13, 2022.

P. C. [Per Sharmila U. Deshmukh, J.] :

1. Heard learned counsel appearing for the respective parties.
2. The Petitioners are related with each other and claim to be belonging to *Tokre Koli* tribe, recognised as one of the scheduled tribe mentioned at serial No.28 of the Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976. Separate applications were submitted by the Petitioners through the father

of Petitioner No.1, namely, Maruti Deosab Taral, for issuance of tribe certificates, which have been rejected by the Sub-Divisional Officer (for short, "*the SDO*"). The appeals preferred by the Petitioners to the Scheduled Tribe Certificate Scrutiny Committee (for short "*the Committee*") were dismissed by the Committee upholding the order of SDO. By the present petition, the Petitioners impugn the orders of rejection dated 31st March 2021 passed by the SDO, Respondent No.3 herein, as well as the order dated 21st March 2022 passed by the Committee, Respondent No.2 herein.

3. On 17th November 2020, applications on behalf of the Petitioners were submitted to the SDO seeking issuance of tribe certificates. On 24th November 2020, the SDO issued communication to the Tahsildar, Shirol for conducting an inquiry as to whether the Petitioners belong to *Tokre Koli* tribe and to submit a report within a period of 8 days. Tehsildar, Shirol, in turn, issued letters dated 21st December 2020 to the Circle Officer, Kurundwad with a direction to conduct a local inspection as sought by the SDO. Pursuant thereto, the Circle Officer, Kurundwad conducted spot inspection and the report was forwarded to Respondent No.3. A perusal of the report of local inquiry conducted by the Circle Officer, Kurundwad reveals

that as per the Circle Officer, upon conduct of inquiry, there is no impediment to the issuance of tribe certificate as *Tokre Koli* to the Petitioners.

4. In support of their claim for issuance of tribe certificates, the Petitioners submitted the tribe certificates issued to Maruti Deosab Taral, Ashok Deosab Taral, Ganpati Tatya Koli, Dilip Balu Koli and Balu Rama Koli, the service record of Dilip Balu Koli, Maruti Deosab Taral, Ashok Deosab Koli wherein their caste is recorded as "*Hindu Tokre Koli*". In order to establish their relationship with the aforesaid persons, who are holding the tribe certificates, revenue records were produced evidencing the partition between Naiku Deoba Taral and his sons—Tatya, Rama and Bandu and the genealogy linking the Petitioner to their common ancestor Naiku Deoba Taral i.e. Petitioner No.1 is the son of Maruti, who is great great-grand son of Naiku Taral, Petitioner No.2-Rutuja is the daughter of Ashok, who is the brother of Maruti, Petitioner No.3- Rushikesh is the brother of Rutuja and son of Ashok, Petitioner No.4 is the daughter of Dilip, who is the great grand-son of Naiku Taral, Petitioner No.5- Saurabh is the brother of Diksha.

5. The reasons given in the impugned order of the SDO is that

the tribe certificates issued to Maruti, Ashok, Ganpati and Dilip are not validated and further as per the genealogy there is no evidence as regards the full names of the persons listed therein. The other documentary evidence in form of revenue records has been discarded on the ground that the relationship with Tatya Naiku Taral is not substantiated with any revenue proof and further failure to produce pre-1950 era documents has led to rejection of the Petitioner's tribe claim.

6. We have perused the material on record. In our opinion, the Respondent No.3-SDO and Respondent No.2-Committee has fallen in error in rejecting the Petitioners' applications for issuance of tribe certificates. It is not in dispute that Maruti, Ashok, Ganpat, Dilip and Balu have been issued the tribe certificates, and the 7/12 extracts along with the genealogy which is at page no.116 of petition, makes it clear that Petitioner No.1 is the offspring of Maruti, Petitioner Nos.2 and 3 are the offsprings of Ashok, Petitioner Nos.4 and 5 are the offsprings of Dilip, who all are descendants of the common ancestor–Naiku Deoba Taral. Respondent No.3 ought not to have demanded a *pre-1950 era* document for the purpose of issuance of tribe certificates, as, at this stage of issuance of tribe certificate, all that is required is a *prima facie* satisfaction and an in-depth enquiry

is contemplated at the time of validation of the tribe certificate. Merely on the basis of tribe certificates, no benefits can be claimed under the government policies in the matter of employment or education unless the persons is armed with the tribe validity certificate, in which case an in-depth inquiry is contemplated.

7. In the present case, in our opinion, the Petitioners have produced sufficient material to draw a conclusion, at least, *prima facie*, that they belong to *Tokre Koli* scheduled tribe and are entitled to receive tribe certificates from the competent authority accordingly as such.

8. In the circumstances, the writ petition is allowed in the following terms :

[i] The order passed by Respondent No.2-Committee dated 21st March 2022 and the order of Respondent No.3-SDO dated 31st March 2021 whereby the claim of Petitioners for issuance of tribe certificates has been rejected, are hereby quashed and set aside.

[ii] Respondent No.3-SDO is directed to issue tribe certificates to each of the Petitioners as expeditiously as possible and preferably within a period of six weeks from today.

[iii] Needless to clarify that the observations made in the

present order are only for the limited purpose of issuance of tribe certificates and the Scrutiny Committee while considering the validation of tribe certificates is required to conduct an enquiry in accordance with law, uninfluenced by the observations made in the present order.

[Sharmila U. Deshmukh, J.]

[Nitin W. Sambre, J.]