

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.226 OF 2022

Tushar Rajendra Hajare .. Petitioner
v/s.
The State of Maharashtra Through
Secretary And Ors. .. Respondents

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Mr. Deepak D. Choudhari, for the Petitioner.

Shri. N.K. Rajpurohit, AGP, for State.

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**CORAM: NITIN JAMDAR &
AMIT B. BORKAR JJ.**

**DATE : 13 JANUARY 2022.
(Through Video Conferencing)**

P.C:-

The Petitioner is seeking to quash the judgment and order passed by Respondent No.2 Scrutiny Committee dated 3 December 2021 invalidating the caste certificate issued to the Petitioner dated 16 April 2019 as belonging to Koli Mahadev (Scheduled Tribe).

2. The Petitioner is a student. The Petitioner is desirous of pursuing further studies in Health Science Course. The Petitioner intends to prosecute studies in Scheduled Tribe Category, for which a validity certificate issued by the Caste Scrutiny Committee is necessary.

3. The Petitioner was issued a caste certificate as belonging to Koli Mahadev Scheduled Tribe by the Sub Divisional Officer, Baramati. The caste certificate of the Petitioner was referred for verification to the scrutiny committee. The scrutiny committee carried out Vigilance Cell enquiry. The Petitioner submitted documents. The scrutiny committee, after assessing the evidence, came to the conclusion that the Petitioner has failed to prove his claim as Mahadev Koli Scheduled Tribe and has also failed to show affinity to the Tribe. The scrutiny Committee, in the impugned order, has referred to the Vigilance Cell enquiry and the documents produced by the Vigilance Cell enquiry through the report dated 18 December 2019.

4. The documents on record show that the entries in the birth extracts in the Petitioner's grandfather of 15 March 1933 is Hindu Koli. As regard the cousin aunt, it is dated 4 April 1943 and is Hindu Koli. The entries in respect of the Petitioner's father of 1 July 1968 and 15 July 1974 are Hindu Koli. The other entries showing the caste as Hindu Mahadev Koli in respect of other blood relatives such as uncle and cousin are ranging from 1963 onwards to 1970. The birth extract produced in respect of the Petitioner's grandfather, cousin grandfathers of the year 3 July 1927, 13 July 1931 and 13 October 1934, all show Koli. It is settled that to ascertain genuineness of the claim put up by the candidate, the entries before 1950, the pre-Constitution period, are germane. In respect of the Petitioner's

grandfather, the entries are Hindu Koli. In fact, even after 1950, in case of Petitioner's father, the entry is Hindu Koli. *The Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000* places burden on the candidate to demonstrate the caste claim.

5. The learned Counsel for the Petitioner submitted that two documents, which are produced by the Petitioner, have not been considered by the scrutiny committee. Reference is made to a chart in reply filed by the Petitioner before the committee. The first document the Petitioner has referred to is in respect of Atmaram Ganpat Hajare of 20 July 1930. It is not stated therein as to the nature of this document. Secondly, the entry of M. Koli. Since the burden is on the Petitioner, the Petitioner will have to demonstrate that how this entry, admittedly not Mahadev Koli, supports the Petitioner's claim. The second document in respect of Krishna Ganpat Hajare. The document in the reply itself is referred to as 20 July 2020. It, according to the Petitioner, show the entry Hindu-Mahadev Koli. Firstly, the learned Counsel state that the year 2020 is a mistake and it ought to have been the year 1920. If such an error is made by the Petitioner, then the scrutiny committee cannot be straightaway blamed for the same. Secondly, the leaving certificate is issued in the year 1982. The extract

of the School Register on the basis of the certificate is not placed on record by the Petitioner. Thirdly, the learned Counsel for the Petitioner has stated that Krishna Ganpat Hajare is cousin (twice removed) grandfather of the Petitioner. We note that the scrutiny committee in the impugned order has referred to invalidation of caste certificate of one Subhash Krishna Hajare and is referred as cousin (twice removed) of the Petitioner. The name Subhash Krishna Hajare would be related to Krishna Hajare. The burden of demonstrating otherwise is on the Petitioner, which is not discharged. If his caste validity certificate was rejected and if the Petitioner is seeking parity, the same consequence would follow.

6. When the Petitioner's own grandfather and father's entry show Hindu Koli, the claim of the Petitioner was rightly negated. Thus, having failed to demonstrate that the Petitioner belongs to Mahadev Koli Scheduled Tribe, we find no error in the view taken by the Respondent-Scrutiny Committee. Accordingly, the writ petition is rejected.

(AMIT B. BORKAR J.)

(NITIN JAMDAR, J.)