

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1017 OF 2018

Smt. Pooja Kishor Thokre : Petitioner.
Versus
State of Maharashtra and ors. : Respondents.

Mr. R K Mendadkar a/w Mr. Kamal Gaikwad for the Petitioner.
Mrs. N M Mehra, AGP for Respondent Nos.1 and 2.
Mr. Suresh M Kamble a/w Mr. Bhavesh S Mogam for Respondent No.3.
Mr. Anuj Gaikar, Law Officer of Respondent No.2 present.

CORAM : S. V. GANGAPURWALA &
ARIF S. DOCTOR, JJ.
DATED : 24th NOVEMBER 2022

P.C.

1 At the outset, the learned counsel appearing for the Petitioner seeks leave to amend the surname of the Petitioner. Leave granted.

2 Rule. Rule is made returnable forthwith. By the consent of the learned counsel for the parties taken up for final disposal.

3 The caste claims by the Petitioner as belonging to Koli Mahadev – scheduled tribe is invalidated.

4 Amongst other submissions, one of the submission of the learned

counsel for the Petitioner is that after the judgment of the Scrutiny Committee she could lay her hands on the document of her cousin grand father vis. Guna Vitthal Bhokare of the year 1950 wherein caste is recorded as Koli Mahadev. The said document, according to the Petitioner, is a true copy of birth extract.

5 The learned AGP submits that in the genealogy submitted by the Petitioner before the Committee, Guna Vitthal Bhokare is not shown to be paternal relative of the Petitioner. The genealogy was filed by the Petitioner herself, and no pre-constitutional document exists. The learned AGP submits that in the school record of the Petitioner's father caste is recorded as Koli and not Koli Mahadeo. The Petitioner has failed in affinity test.

6 We have considered the submissions. No doubt in the school record the caste of the Petitioner's father is recorded as Koli. Koli does not belong to scheduled tribe. The Petitioner claims to be belonging to Koli Mahadev – the scheduled tribe. The Petitioner has produced the record of his cousin uncle of the year 1976 recording the caste as Mahadev Koli.

7 It is trite that the pre-constitutional documents have more probative value. In the present writ petition we cannot conclude the relationship of the Petitioner with Guna Vitthal Bhokare. It is submitted that while obtaining caste certificate of the real sister of the Petitioner viz. Jyotsna

Kishor Bhokare, the genealogy, which is submitted by the Petitioner before this Court, was relied upon, in which Guna Vitthal Bhokare is shown from the branch of Vitthal Bhokare who, according to the Petitioner, is the real brother of Kashinath Rama Bhokare.

8 It will be for the vigilance committee to verify the relationship of the Petitioner and genuineness of the document produced by the Petitioner.

9 Considering that the matter relates to the social status of the Petitioner, we are inclined to grant one more opportunity to the Petitioner. Hence we pass the following order :-

:ORDER:

- A] The impugned order is quashed and set aside.
- B] The parties are relegated to the Scrutiny Committee. Parties shall appear before the Scrutiny Committee on 08th December 2022.
- C] The Petitioner shall produce certified copy of the birth extract of Guna Vitthal Bhokare and the genealogy before the Scrutiny Committee.
- D] The Scrutiny Committee may conduct vigilance in respect of the documents produced by the Petitioner so also verify the relationship of the Petitioner as claimed with Guna Vitthal Bhokare

and thereafter decide the proceedings afresh expeditiously.

E] Needless to state that unless the Petitioner receives valid certificate, the Petitioner is not entitled to claim any benefit of the reservation.

F] The Petition is disposed of. No costs.

[ARIF S. DOCTOR, J]

[S. V. GANGAPURWALA, J]