

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3812 OF 2022

Murlidhar Shankar Kotkar ... Petitioner

Versus

State of Maharashtra & Ors. ... Respondents

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Mr.Sangharsh Waghmare for the Petitioner.

Mr. A.P. Vanarase, AGP for the State.

Mr. Neel G. Helewar i/b. P. Khosla for the Respondent No.4.

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**CORAM : NITIN JAMDAR AND
SHARMILA U. DESHMUKH, JJ.**

DATE : 11 NOVEMBER 2022

P.C. :

Heard the learned Counsel for the parties.

2. By this petition, the Petitioner has challenged the order passed by the Scheduled Caste Certificate Scrutiny Committee, Kokan Division, Thane dated 12 January 2022 invalidating the caste certificate issued to the Petitioner on 23 August 2017 as Koli Mahadev (Scheduled Tribe). The Petitioner has also challenged the order dated 15 February 2022 passed by the Senior Superintendent of Post Offices, Navi Mumbai dismissing the Petitioner from the service on the ground of invalidation of the caste certificate.

3. The Petitioner applied for issuance of the caste certificate as belonging to Mahadev Koli (Scheduled Tribe) and he was accordingly granted certificate by the Sub Divisional Officer, Alibaug on 23 August 2017. The Petitioner was appointed in group D cadre in the Department of Post. The caste certificate of the Petitioner was sent for verification to the Scrutiny Committee on 28 November 2017. The Petitioner submitted certain documents. An enquiry through Vigilance Cell was conducted and the Vigilance Cell submitted a report on 18 December 2018. The Petitioner was called for hearing. A copy of the Vigilance Cell report was given. Thereafter, the Scrutiny Committee after assessing the evidence on record, proceeded to invalidate the caste certificate.

4. The documents relied upon by the Petitioner, as stated in the impugned order, range from 1970 to 1980 and 2017. The Petitioner's own school leaving certificate is of 14 July 1970 and the Petitioner's brother-Govind school leaving certificate is of 11 July 1958. The Petitioner has placed strong reliance on the school leaving certificate of his brother.

5. According to the Petitioner, the school leaving certificate shows the entry of Hindu Mahadev Koli. This certificate is dated 24 March 1997. The school register placed on record by the Vigilance Cell shows that the entry is of "Hindu Sonkoli". This fact has been rightly noted by the Scrutiny Committee. The Scrutiny Committee has also

noted that none of the documents of the blood relatives of the Petitioner show the caste of the Petitioner as Hindu Mahadev Koli and there are different entries as 'Son koli', 'Madhav Koli' and 'Malhar Koli'. As per Section 8 of 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, the burden of proving the caste claim is upon the Claimant. It is settled through the catena of the decisions of the Hon'ble Supreme Court that for establishing claim as belonging to Scheduled Tribe, the documents prior to 1950, that is pre-independence period would have primacy. Since the Petitioner failed to establish his claim by producing cogent evidence, the Scrutiny Committee has rightly invalidated the caste certificate. There is no error in the impugned order of the Scrutiny Committee. There is no error in the order of termination which is based on the order of invalidation as the Petitioner appointment was on reserved category.

6. The writ petition is accordingly rejected.

(SHARMILA U. DESHMUKH, J.)

(NITIN JAMDAR, J.)

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