

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

WRIT PETITION NO.2333 OF 2021

Pritam Gajanan Gite and Ors.
V/s.

..Petitioners

State of Maharashtra and Ors.

..Respondents

Mr. Kamalakar L. Koli for the Petitioners.

Mrs. S. S. Bhende, AGP for the Respondent-State.

**CORAM : SUNIL B. SHUKRE AND
AMIT BORKAR, JJ.**

DATE : 25 FEBRUARY 2022.

P. C.

Rule. Rule made returnable forthwith by consent of parties.

2. The Petitioners are aggrieved by refusal of Respondent Nos.3 and 4 to issue caste certificate to the Petitioners indicating their tribe as "Koli Mahadev" Scheduled Tribe. Application made by the Petitioners for tribe certificate was rejected by Respondent No.3 and that the Petitioners filed an appeal. Their appeal was also dismissed by Respondent No.2. Respondent No.3 gave emphasis upon submission of the documents by the Petitioners which indicated their social status

as “Koli Mahadev” and not as “Hindu Koli Mahadev”, while, Respondent No.2 insisted upon submission of documents showing the social status of the Petitioners as “Koli Mahadev” which were of the period prior to August 1950.

3. In our considered view, Respondent No.3 as well as Respondent No.2 have conducted inquiry in a manner and arrived at the conclusion adverse to the Petitioners, as if they were finally deciding the issue.

4. The purpose of inquiry contemplated in Rules 3 and 4 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 and Rules 2003 is to *prima facie* satisfy oneself about truthfulness of the claim of the Applicant. Its purpose is not to conduct detailed inquiry and after evaluating the pros and cons of the claim and the evidence submitted in proof of the claim record a finding of the fact that the claimant belongs or does not belong to tribe which he claims to be belonging to.

5. The nature of inquiry contemplated in these Rules is of summary nature and it is indeed for the purpose of arriving at a *prima facie* conclusion regarding the social status of the

Applicant. In the case of *Santosh Kerba Padher & Ors. v. The State of Maharashtra and Ors., Writ Petition No.1435/2019* decided on 9/7/2019 another Division Bench of this Court has held that at the stage of issuance of tribe certificate, the issuing Authority is required to adduce *prima facie* material in support of the claim and is not expected to conduct detailed inquiry. It is further held that detailed inquiry as regards the status of an individual is expected to be conducted at the stage of issuance of validity certificate. It is also observed that on the strength of caste or tribe certificate, an individual does not become entitled to claim any benefits under the Government policy or in relation to employment or while pursuing the higher education, unless an individual possesses the caste validity certificate. The view so taken commends to us.

6. In the present case, we find that Respondent No.3 embarked upon a detailed inquiry interpreting information contained in various documents and then recorded a finding in a way as if Respondent No.3 was scrutinizing the caste certificate with a view to validate or invalidate it. Similar approach is adopted by Respondent No.2 while deciding the appeal filed by the Petitioners. Even Respondent No.2 found that as there was not a single document filed by the Petitioners which pertained to the period prior to August 1950, caste certificate could not be issued to the Petitioners. These Authorities however, forgot the

requirement of law. At the stage of issuance of caste or tribe certificate such a detailed inquiry is not required and what is required is to consider the information supplied by the claimant to the Officer and verify as to whether information provided on the basis of documents is genuine or not. The Competent Authority is not required to consider as to whether or not the documentary evidence produced is sufficient to prove the caste or tribe claim of the Petitioner. Unfortunately, that has not occurred in the present case.

7. On going through the documents produced on record, we find that the requirement of summary inquiry is fulfilled by the Petitioner. These documents generally indicate that *prima facie* the Petitioners belong to "Mahadev Koli" Scheduled Tribe and therefore, these Authorities must issue tribe certificate in favour of the Petitioners.

8. Some of the documents, of course also mention the words "Hindu Koli" prior to "Mahadev Koli". Mentioning of the word "Hindu" in our considered view is only for indicating the religion which a person may be professing and it has, *prima facie*, no connection with the tribal status of a person. Sometimes, it can also be for satisfying the needs of the Society that may have arisen at the time when entries in the documents are taken. Therefore, based upon such an entry, there can be no refusal to issue the

certificate. In any case these factors are the subject matter of scrutiny which can be done when the caste certificate/tribe certificate issued is required to be validated by the Scrutiny Committee, but, till that happens the Petitioner cannot be refused the tribe certificate.

9. In the result, the Petition is allowed. The impugned order is hereby quashed and set aside. Respondent No.3 is directed to issue tribe certificate to the Petitioners showing them to be belonging to "Koli Mahadev" Scheduled Tribe within a period of 4 weeks from the date of receipt of the order.

10. The Writ Petition is disposed of.

11. Rule accordingly. No costs.

(AMIT BORKAR, J.)

(SUNIL B. SHUKRE, J.)