

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9748 OF 2022

1. Shree s/o Prakash Koli.]
2. Omkar s/o Prakash Koli.] **...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. The Petitioners are brothers and claim to belong to *Koli Mahadev*, a scheduled tribe. An application was filed by the Petitioners through their uncle Vinayak Shivaji Koli for issuance of tribe certificates, which has been rejected by the Sub Divisional Officer (for short "*the SDO*") by his order dated 31st December 2020 and the appeal preferred against the order of SDO has been dismissed by Respondent No.2- Scheduled Tribe Certificate Scrutiny Committee (for short "*the Committee*") by order dated 11th March 2022.

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2. Heard learned counsel appearing for the respective parties.
3. Learned counsel for the Petitioners submits that in spite of sufficient *prima facie* material placed on record which satisfied the requirement for issuance of tribe claim certificate, the Petitioner's claim has been rejected on the ground that the Petitioners have not submitted pre-1950 evidence of revenue records regarding blood relatives and validity certificates of their blood relatives. Learned AGP has supported the order and prays for appropriate order from this Court.
4. To substantiate their tribe claim, the Petitioners have produced the caste certificate of *Koli Mahadev* issued to their uncle Vinayak Shivaji Koli, extract of general register of the school as regards Petitioner No.1 recording the caste as Hindu Koli Mahadev, the Bonafide certificate of father of the Petitioners issued by the Principal, K.B. Patil Vidyalaya, Mahsal, Tal: Miraj, Dist: Sangli, which records the caste as Hindu Koli, the birth certificate of Petitioner No.2 recording the names of parents of Petitioner No.2 as Prakash Shivaji Koli and Sarika Prakash Koli, the certificate issued by Police-Patil in respect of the Petitioners which supports the claim of Petitioners as belonging to Koli Mahadev, the certificate issued by

the Sarpanch to Vinayak Shivaji Koli certifying the caste of Vinayak Shivaji Koli as Koli Mahadev, the certificate dated 24th January 1980 issued to Shivaji Mahadev Koli, the father of Vinayak Shivaji Koli, recording the caste as Mahadev Koli, the 7/12 extract of the year 1949-50 in respect of the grand-father of Vinayak Shivaji Koli, i.e., Mahadev Bhiva Koli, the caste certificate of *Mahadev Koli* issued to Vitthal Vasant Koli, the son of cousin brother of Shivaji Koli, by Tahsildar, Miraj dated 17th July 1979 and the affidavits sworn by Vinayak Shivaji Koli for issuance of tribe certificates.

5. Despite the production of the aforesaid material, the Respondent No.2 has not considered the same in proper perspective and rejected the Petitioners claim. In our opinion, the Petitioners have produced sufficient material on record to draw a conclusion at least *prima facie* that they belong to *Koli Mahadev* tribe and particularly in view of the tribe certificate issued to the Petitioner's uncle and Vitthal Vasant Koli. 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 certificate, no benefits can be claimed under the government policies in the matter of employment education unless the person is armed with the tribe validity certificate, in which case an in-depth

inquiry is contemplated.

6. In the circumstances, the Petitioners are entitled to receive the certificate from the Competent Authority. Writ petition is allowed in the following terms :

- [i] The order passed by Respondent No.2-Committee dated 11th March 2022 and the order of Respondent No.3-SDO dated 31st March 2020 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.]