

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10016 OF 2023

Piyush Sanjay Solunke

...Petitioner

Versus

1. State of Maharashtra
through its Secretary,
Tribal Development Department, Mumbai.

2. The Scheduled Tribe Certificate
Verification Committee, Dhule,
Through its Member Secretary
having its office at Sindhu,
Manik Building, Near Ekveera,
High School, Deopur, Dhule.

...Respondents

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Advocate for Petitioner : Mr. Mahesh S. Deshmukh h/f Mr. R.K. Mendadkar
AGP for Respondents/State : Mr. A. S.Shinde

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 11 AUGUST 2023

ORDER (Shailesh P. Brahme, J.) :

. Heard both the sides at the admission stage. It is informed that the petitioner is provisionally admitted in a college of engineering on a condition of producing validity certificate by 16.08.2023. We have taken up the matter for hearing.

2. The petitioner claims to be member of Tokre Koli scheduled tribe.

His tribe certificate was invalidated by judgment and order dated 08.08.2023 which is questioned in the present matter. The petitioner is relying upon pre-constitutional entries in the school record. According to him the old record is reliable and verified during the vigilance enquiry.

3. The learned AGP supports impugned judgment and order. According to him, there were contrary entries incompatible with the tribe claim of the petitioner. The old school record is not reliable and found to be tampered. The relationship of the petitioner with the persons figuring in the record is disputed. The Scrutiny Committee is justified in recording affinity test against the petitioner.

4. The learned Counsel for the petitioner has drawn our attention to the old school entries of Chindhu Ukha Koli which is produced at page no.55 and 56. The genealogy at page no.44 shows that Chindhu is a great grandfather of the petitioner. There is also old record of Rajaram Chindhu Koli, which is at page no.61. The affidavit of Mr. Suresh Joshi a translator, is produced on record to indicate that the old record standing in the name of Chindhu indicates caste as Tokre Koli. It is further corroborated by a letter of Curator dated 04.07.2023. He invites our attention to reply which is at page no.70.

5. We have also noticed that the old entries were verified during the vigilance enquiry. The entries are produced from lawful source. The

letter of the Curator dated 04.07.2023 is not dealt with by the Scrutiny Committee. In that view of the matter, the Scrutiny Committee erred in holding that the old entries are suspicious and unreliable.

6. We are of the considered view that there is clinching evidence on record of pre-constitutional entry having greater probative value. The record appears to be verified. In view of law laid down by the Supreme Court in the matter of **Anand Versus Committee for Scrutiny and Verification of Tribe Claims and Others**, reported in (2012) 1 SCC 113, the old entries would enure to the benefit of the petitioner.

7. The learned Counsel for the petitioner has invited our attention to the entry of Chindhu Koli, indicating caste as Dongre Koli which is of 1909. Donger Koli is also a scheduled tribe at entry no. 29 of The Constitution (scheduled tribe) Order, 1950. Therefore that cannot be regarded as a contrary entry.

8. The learned AGP is unable to substantiate his submission that the documents produced by the petitioner are disputed and the entries are tampered. The petitioner has discharged the burden successfully. The Committee has opportunity to question the persons who were before the Committee in support of the petitioner. However, such exercise has not been undertaken.

9. For the reasons stated above, the impugned judgment and order is patently illegal and unsustainable. The petitioner is entitled to validate certificate without there being any condition. We, therefore, dispose of the writ petition by passing following order.

ORDER

- (i) The writ petition is allowed.
- (ii) The impugned order passed by the respondent – Scrutiny Committee is quashed and set aside.
- (iii) Since the petitioner is to produce the documents by 16 August 2023, the Committee shall issue tribe validity certificate to the petitioner as belonging to ‘Tokre Koli’ scheduled tribe, latest by 4:00 pm today.
- (iv) The certificate of validity shall be issued in the prescribed format without incorporating any other conditions/additions.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]