



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

WRIT PETITION NO. 12527 OF 2019

Durvesh Sharad Tawar,
Age : 19 years, Occu. Student,
R/o. 34, Satsang Colony, Deopur,
Tq. Dist. Dhule.

....Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar,
through its Member Secretary

...Respondents

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Mr. Mahesh S. Deshmukh – Advocate i/b Mr. Vasant S. Bholankar –
Advocate for the Petitioner
Mr. Govind A. Kulkarni – AGP for respondent nos. 1 and 2

.....

**CORAM : MANGESH S. PATIL
AND
NEERAJ P. DHOTE, JJ.**

DATED : 15TH DECEMBER 2023

JUDGMENT [Per : Neeraj P. Dhote, J.] : -

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties. Perused the papers.
2. The Petitioner by this petition challenges the order dated 31.07.2019 passed by Respondent No. 2 – Scrutiny Committee

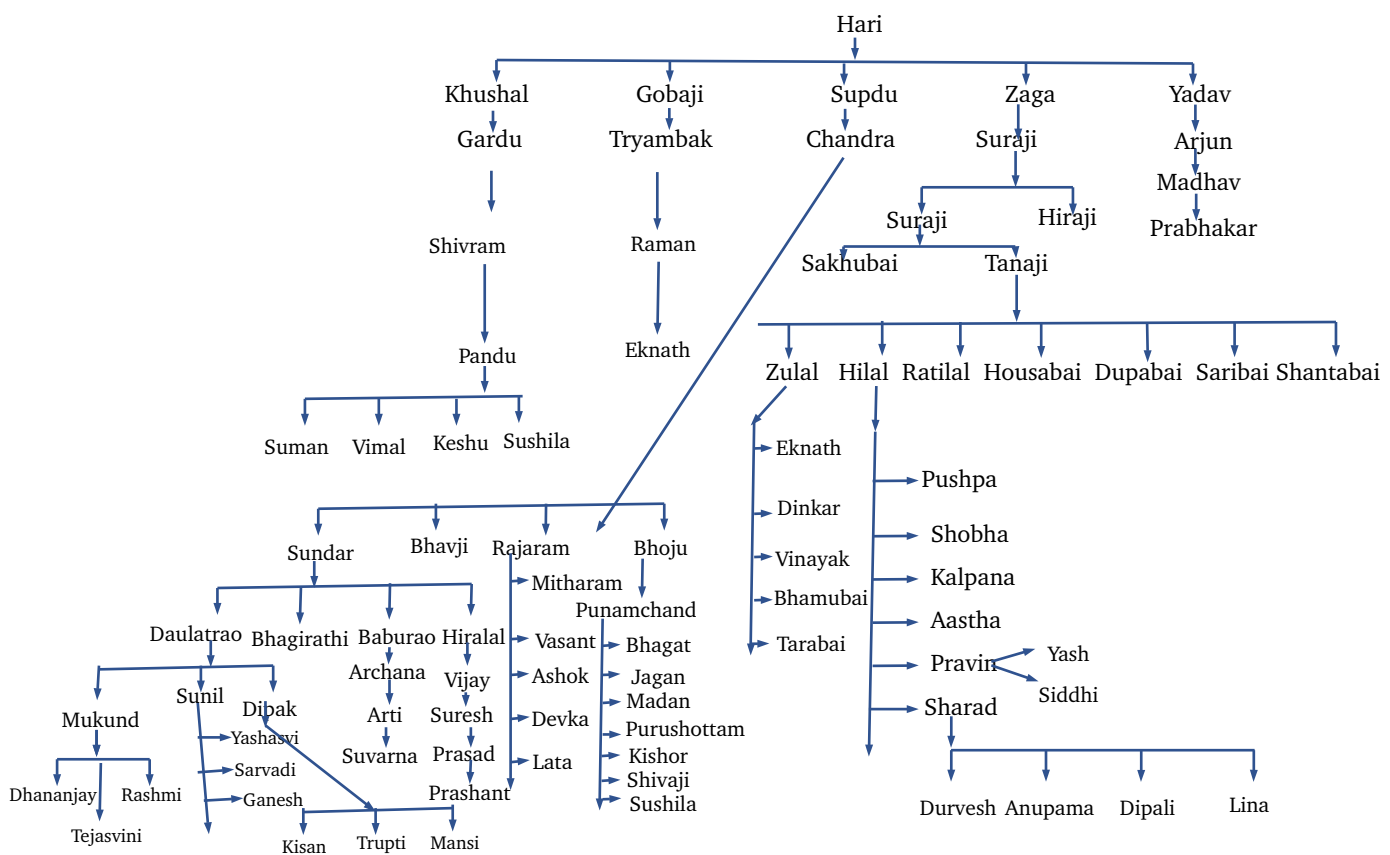
invalidating his tribe claim of belonging to 'Tokre Koli' Scheduled Tribe. The Petitioner, who is a student, is pursuing education for which validity certificate is required and, therefore, applied to the Respondent No. 2 – Scrutiny Committee, which has invalidated the claim by the impugned order.

3. It is submitted by the learned Advocate for the Petitioner that though the Petitioner had tendered the copies of pre-independence documents in respect of his blood relatives i.e. the cousin grandfather and grand aunt supporting the claim, Respondent No. 2 – Committee has not considered the same. He further submitted that though there are several validities granted to the blood relatives of the Petitioner including his father - Sharad Hilal Tawar, the Committee invalidated his tribe claim. It is submitted that though the oldest entries are of 'Dhor Koli', those cannot be the impediment to grant validity of 'Tokre Koli', since both the tribes fall in the same Entry No. 28 in the Constitution (Scheduled Tribes) Order, 1950. It is submitted that though the Vigilance Committee has concluded that the documents of the blood relatives of the Petitioner showing entry as 'Koli', they are of the subsequent period and cannot override the pre-independence entries. He, therefore, submits that the Petition be allowed.

4. Learned AGP submitted that the Scrutiny Committee has properly invalidated the tribe claim of the Petitioner, as none of the

documents support his claim. He submitted that the blood relatives of the Petitioner have been granted validities in defiance of the procedure under law. He also submitted that it was found during vigilance inquiry that the documents and the affinity test did not support the petitioner's claim. He, therefore, prays for dismissal of the petition.

5. The undisputed genealogy as shown in the impugned order is as follows :



6. The impugned order shows that the Petitioner had tendered the following documentary proof in support of his claim :

Sr. No.	Name of document	Name of a person on document	Caste entry	Admission/ Entry Date	Remark
1.	Proof of birth	Sari Tanaji Suraji	Dho. Koli	Date of birth 06.11.1928	The evidence could not be certified as true during the vigilance inquiry because it was not available in the office.
2.	Proof of birth	Hilal Tanaji Suraji	Dhor Koli	Date of birth 25.03.1935	

3.	School proof	Prabhakar Madhav Tawar	Hindu Koli (Dhor)	09.06.1943	Prima facie it appears, that the word 'Dhor' was added in the main entry 'Hindu Koli'.
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6.1. From the above chart, if we see the genealogy and the documents tendered by Petitioner in support of his claim, it clearly goes to show that Sari Tanaji Suraji and Hilal Tanaji Suraji are the blood relatives being grand aunt and grandfather, respectively, of the Petitioner. The caste entries against their names show 'Dho Koli' and 'Dhor Koli' of 06.11.1928 and 25.03.1935, respectively. The impugned order shows that the Respondent No. 2 – Committee has not at all considered and discussed about the said oldest entries, though it was duty bound to do so.

7. The other aspect which falls for our consideration is that the Petitioner claims to be belonging to 'Tokre Koli' tribe; whereas, the said two entries of pre-constitution period are of 'Dhor Koli'. As per the Constitution (Scheduled Tribes) Order, 1950, the entry no. 28 shows castes such as Koli, Dhor, Tokre Koli, Kolcha, Kolgha. The order passed by the Scrutiny Committee, Nashik in the matter of Satish Prabhakar Tawar, who is blood relative, being uncle of the petitioner, is annexed as 'Exhibit P' to the Petition. Perusal of this order shows that Satish Prabhakar Tawar claimed to be belonging to 'Koli Dhor' Scheduled Tribe and was given benefit of the validities of his blood relatives, namely,

Sharad Hilal Tawar, Mukund Hilal Tawar, Pravin Hilal Tawar and Diapli Sharad Tawar by the then Scrutiny Committee of 'Tokre Koli' Scheduled Tribe. That order further shows that the School Leaving Certificate of his father mentioned caste as 'Hindu Koli (Dhor)'. This shows that 'Tokre Koli' entry was considered and accepted for the claim towards 'Dhor Koli' Scheduled Tribe. Further, this Court in **Writ Petition No. 9654 of 2019** (*Nilesh s/o Gulab Sonawane and another Versus The State of Maharashtra & Ors, decided on 18.10.2023*) dealt with a similar issue in which the tribe claim was towards 'Tokre Koli' and the oldest documents which were available / tendered were showing the Caste/Tribe as 'Koli Dhor' / 'Tokre Koli' and by considering the entry no. 28 of the Constitution (Scheduled Tribe) Order, 1950, this Court observed in paragraph nos. 6 and 14 as under : -

"6. The learned Counsel for the petitioners would submit that the entry no. 28 of Scheduled Tribe Order 1950 shows following caste :

Koli Dhor; Tokre Koli; Kolcha; Kolgha.

. There is no difference in the caste Tokre Koli or Dhor Koli. Therefore the finding recorded by the Committee for rejecting the caste claim of the petitioners that few entries would show caste as Koli Dhor whereas the claim of the petitioners of Tokre Koli is unsustainable. As both the castes are at entry no.28, the record showing Koli Dhor can be said to be compatible with the tribe claim of the petitioners.

14. The learned Counsel for the petitioners has invited our attention to entry no.28 of the Constitution (Scheduled Tribe) Order, 1950. Tokre Koli and Koli Dhor are included in the entry. There is combined record showing the caste of the relatives of the petitioners as Tokre Koli and Koli

Dhor. Those were recorded during the period of pre-independence. It cannot be inferred that there was any oblique motive to record the caste. The reference of Koli Dhor or Tokre Koli cannot be treated to be contrary entry. Both are scheduled tribes. The difference in nomenclature may not change social status as both the caste are included in one entry. The finding of the Scrutiny Committee is not sustainable.”

7.1. The Writ Petition was allowed and the Scrutiny Committee was directed to issue tribe validity certificate of ‘Tokre Koli’ Scheduled Tribe to the Petitioners therein.

8. From the above discussion, it becomes clear that though two oldest documents of Petitioner’s blood relatives show the caste as ‘Dhor Koli’, they will not be an impediment for claim towards ‘Tokre Koli’ Scheduled Tribe. Needless to state that the pre-constitutional entries have a greater probative value. One of the judgments in that regard is in the case of Anand .vrs. Committee for Scrutiny and Verification of Tribe Claims and others reported at 2011 (6) Mh.L.J. 919. Thus, these two entries would certainly come to the aid of the Petitioner.

9. There is no dispute that there are certain validities granted to the blood relatives of the Petitioner. The papers show that, the Scrutiny Committee at Nashik, vide order dated 24.11.1997 held the caste certificate of Petitioner’s father Sharad Hilal Tawar as valid. Record further shows that Pravin Hilal Tawar, Ku. Anupama Sharad

Tawar, Lina Sharad Tawar and Ku. Dipali Sharad Tawar have been issued validities of 'Tokre Koli' Scheduled Tribe. Further the blood relatives, namely, Aditi Tawar, Nikhil Sharadkumar Tawar, Rushikesh Rajendra Tawar, Rutuja Tawar have also been granted the validites as 'Koli Dhor' Scheduled Tribe, pursuant to the orders passed by this Court in Writ Petition No. 810 of 2023 and 8651 of 2022, dated 08.08.2023 and 07.09.2023, respectively.

10. It is seen from the impugned order that during the vigilance inquiry in the case of Petitioner, the documents of the blood relatives of the Petitioner showing the caste as Koli / Hindu Koli / Hindu Mahadev Koli / Hindu Suryawanshi Koli / Hindu Tokre Koli came to be collected. However, all those entries are from the year 1941 and onwards which are subsequent to the above referred two oldest entries. As observed above, the pre-constitutional period entries would have more probative value.

11. The impugned order shows that during the vigilance inquiry, the said two entries of 1928 and 1935 could not be certified as a true because the original record was not found in the concerned office. On this aspect, it is submitted by the learned advocate for the Petitioner that the said entries were issued from the concerned Tahsil Office and there are communications in that regard at Exh. 'I' and 'J' in the petition.

Perusal of the Exhibits shows that they were issued by the Tahsil Office, Shirpur, Dist. Dhule and the said communications are dated 20.07.2019 addressed to the Petitioner's father – Sharad.

12. Perusal of the said documents show that the said Tahsil Office of Shirpur has certified that the copies of the entries were issued from their office under the signature and seal of that office. These two communications are not disputed by the Respondent / State / Scrutiny Committee. The two original letters issued by the Tahsil Office, Shripur, find place in the record of the Respondent No. 2 – Scrutiny Committee at page Nos. 65 and 66. It is nobody's case that the entries of Sari Tanaji Suraji dated 06.11.1928 and Hilal Tanaji Suraji dated 25.03.1935 are manipulated or fabricated.

13. Perusal of the order passed by the Scrutiny Committee in the matter of Ku. Dipali Sharad Tawar, Lina Sharad Tawar, Ku. Anupama Sharad Tawar and Pravin Hilal Tawar show that there is no reference to the vigilance cell report. However, the vigilance inquiry in the case in hand is done and even if the validities towards the blood relatives of the Petitioner are discarded, the two oldest entries of 1928 and 1935 corroborate the Petitioner's claim. Under such circumstances, it can conveniently be said that the Petitioner has made out a case for issuing validity certificate, of course subject to the final outcome of the cases of

his blood relatives which the Committee has decided to re-open.

14. In the backdrop of the above discussion, we pass the following order : -

ORDER

- [i] Writ Petition is partly allowed.
- [ii] The impugned Judgment and Order dated 31.07.2019 passed by the Respondent No. 2 - Scrutiny Committee is set aside.
- [iii] The Scrutiny Committee shall issue tribe validity certificate in favour of the Petitioner as 'Tokre Koli' Scheduled Tribe, within a period of two weeks from today, subject to the final outcome of the cases of the blood relatives of the Petitioner which the Committee has decided to reopen.
- [iv] The petitioner shall not claim any equity.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE