

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15995 OF 2022

Mr. Raosaheb Irasha Koli

aged 47 years, Occ : Service,

residing at Jaisingpur, Magdum Society,

Vinay Colony, Agarbag, Tal.Shirol,

Dist. Kolhapur – 416 101.

.. Petitioner

Vs.

1. The State of Maharashtra

through its Secretary,

Tribal Development,

Mantralaya, Mumbai – 400 032.

2. Scheduled Tribe Certificate

Scrutiny Committee, Pune Division,

Pune, through its Member Secretary,

having its office at Kapil Towers,

C-Wing, Near RTO Office, Pune-1.

Dist. Pune.

3. Zilla Parishad Kolhapur through its

Chief Executive Officer,

Kolhapur, Dist. Kolhapur.

4. Sub Divisional Officer,

South Solapur, Dist. Solapur.

.. Respondents

• Mr. C.K. Bhangoji for the Petitioner.

• Ms. A.A. Puray, AGP for Respondent Nos.1, 2 &4-State.

CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ

DATE : 29th AUGUST, 2023

ORAL JUDGMENT : (PER : SUNIL B. SHUKRE, J.)

1. Rule. Rule made returnable forthwith by consent of the learned counsel for the respective parties.

2. From the impugned order dated 12.12.2022 passed by Respondent No.2-Committee, one can see that even though there exists an old documents showing entry of the date of 27.09.1913 in the name of one Dhanappa Irasha Koli, who is cousin grandfather of the petitioner from the paternal side, the Scrutiny Committee has not considered the document at all. It is also seen that there is another entry of the year 1923 standing in the name of one Bhimsha Irappa Basgonda Koli, grandfather of the petitioner, which also has not been considered by the Scrutiny Committee in any manner. Both these entries show that the persons named therein are of Mahadeo Koli community. It is further seen that initially the Scrutiny Committee has expressed its doubt about these two documents stating that entries contained in these documents were *prima facie* of doubtful nature, and therefore, it called for some sort of fact finding report from the Education Officer, which was indeed given by the Education Officer certifying both these entries to be true and correct. However, such certification by the Education Officer has also not been considered by the Scrutiny Committee. These entries being important and having potential effect on claim of the petitioner ought to have been appropriately considered by the Scrutiny

Committee, but that has not been done, and therefore, the entire scrutiny conducted by the Scrutiny Committee has been vitiated. That means this petition would have to be allowed with following directions:-

- (i) The Petition is allowed.
- (ii) The impugned order dated 12.12.2022 passed by Respondent No.2-Committee is hereby quashed and set aside.
- (iii) The matter is remanded back to Respondent No.2-Committee for consideration afresh the claim of the petitioner that he belongs to "Koli Mahadeo" Scheduled Tribe in accordance with law.
- (iv) Respondent No.2-Committee shall consider all the documents produced before it by the petitioner and appreciating them in accordance with law, shall record its findings in the matter.
- (v) Petitioner is at liberty to produce fresh documents before Respondent No.2-Committee.
- (vi) Respondent No.2-Committee shall decide the tribe claim of the petitioner in accordance with law at the earliest and in any case within a period of eight weeks from the date of appearance of the petitioner before Respondent No.2-Committee.
- (vii) Petitioner shall appear before Respondent No.2-Committee on 04.09.2023 at 11.30 a.m.

3. Rule is made absolute in the above terms.

4. Writ Petition is disposed of. No costs.

[FIRDOSH P. POONIWALLA, J.]

[SUNIL B. SHUKRE, J.]