

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

WRIT PETITION NO. 1813 OF 2022

Atul S/o. Vijay Saundane ... Petitioner

versus

The State of Maharashtra & Ors. ... Respondents

.....

Ms. Laxmi R. Thakar for the Petitioner.

Mr. B.V.Samant, AGP for the State.

.....

**CORAM : NITIN JAMDAR &
SANDEEP V. MARNE, JJ.**

DATE : 2 AUGUST 2023

P.C.:

Heard the learned Counsel for the parties.

2. The Petitioner has challenged the order dated 17 January 2022 passed by Respondent No.2- Scheduled Tribe Certificate, Scrutiny Committee, Nashik invalidating the caste certificate issued to the Petitioner by Sub-Divisional Officer, Nashik dated 1 November 2018 certifying that the Petitioner belongs to Koli Mahadev Scheduled Tribe.

3. The Petitioner was appointed in the services of Respondent Nos. 3 and 4 in the year 2000. In the year 2013, the caste certificate of the Petitioner was sent for verification by the employer. The

Petitioner appeared before the Scrutiny Committee. The Vigilance Cell enquiry was conducted and report was submitted. The Petitioner was given a copy of the Vigilance Cell report. The Petitioner submitted a statement and the Petitioner was heard. Thereafter, the Scrutiny Committee having found that the Petitioner has failed to establish that the Petitioner belongs to Koli Mahadev Scheduled Tribe community, proceeded to pass the impugned order invalidating the caste certificate.

4. The Vigilance Cell submitted a report on 18 March 2020. The Petitioner produced certain documents such as the School Leaving Certificate of the Petitioner and the School Leaving Certificates of the Petitioner's sister Ujwalabai and brother Lalit. In the school record of the Petitioner's brother and sister, the entry of Hindu Mahadev Koli is made. However, these school records are of 5 July 1982, 26 July 1986 and 25 July 1989 respectively. As regards the Petitioner's uncle Pradip is concerned, the entry in the school record of 29 August 1974 is Hindu M. Koli. As regards the Petitioner's aunt Shalu is concerned, the entry in the school record of 20 June 1972 is Hindu Mahadev Koli. In case of the Petitioner's father Vijay, the entry in the school record of 11 June 1962 is Hindu Koli and pertinently for the Petitioner's cousin grandfather Mahadu, the entry in the school record of 8 June 1943 is Hindu Koli.

5. The Petitioner has sought to rely upon the school records in respect of the Petitioner's uncle Chandrashekhar, father Vijay and cousin grandfather Mahadu. However, in the school record of Petitioner's uncle Chandrashekhar, the caste was mentioned as Hindu Koli and then Mahadev Koli was entered subsequently. In the school record of Petitioner's cousin grandfather Mahadu, the original entry made in 1943 was of Hindu Koli and then it was changed as Mahadev (M) Koli. In the school record of Petitioner's father Vijay, it is found that the caste was changed to Hindu Mahadev Koli from Hindu Koli. The entry was either Koli or Mahadev Koli or Hindu Mahadev Koli having been examined by the Scrutiny Committee. From the record, it is found that the entries prior to 1950 in respect of the Petitioner's relatives were Koli.

6. The learned Counsel for the Petitioner sought to rely on the School Leaving Certificate of the Petitioner's cousin grandfather Keda wherein the caste is mentioned as Hindu Mahadev Koli. The learned Counsel submits that this being an entry of 1950 will have to be given due credence. However, the Petitioner's cousin grandfather Keda was enrolled in the year 1957 and left the school in the year 1962 and the certificate was issued in the year 1984. Therefore, this document also does not support the Petitioner's case as it is post 1950. Therefore, considering this state of evidence produced by the

Petitioner, we cannot hold that a finding of fact recorded by the Scrutiny Committee is perverse.

7. The Petitioner has relied upon the revenue record in the rejoinder which, according to the Petitioner, indicates that the Petitioner's family is a tribal. However, to set aside a finding of fact recorded by the Scrutiny Committee based on multiple entries in the record of the Petitioner's relatives including one prior to 1950 of Koli, there had to be a positive document demonstrating the claim of the Petitioner as Mahadev Koli and only on the basis of the revenue record, which does not specify the entry, a finding of fact recorded by the Scrutiny Committee cannot be set aside.

8. Under section 8 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes, (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and verification of) Caste Certificate Act, 2000, the burden is on the Claimant to prove that he belongs to the community for which he has put forth his claim. Furthermore, the contention that Mahadev Koli is a sub-caste of Koli community is negated by the Hon'ble Supreme Court as far back in 1994 in the case of *Kumari Madhuri Patil and Another V/s. Addl. Commissioner, Tribal Development and others*¹.

¹ 1994 SCC (6) 241

9. Apart from this position, the Scrutiny Committee has also noted that the claims of the Petitioner's cousin sister and the real sister were invalidated.

10. Therefore, we find no error in the impugned order, as the Petitioner has failed to substantiate his claim. In light thereof, there is no merit in the Petition and is accordingly rejected.

(SANDEEP V. MARNE,J.)

(NITIN JAMDAR,J.)