

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

WRIT PETITION NO. 3157 OF 2023

Ishwar s/o. Yuvraj Baviskar

... Petitioner

V/s.

Joint Commissioner and Anr.

... Respondents

Mr. Mohanish V. Thorat for the Petitioner

Ms. Pooja Malik i/b. Mr. N.R. Bubna for Respondent No.2

Mr. N.K. Rajpurohit, AGP for the Respondent - State

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

DATE : 07 AUGUST 2023

P.C. :-

The Petitioner has challenged the order passed by the Respondent – Scrutiny Committee dated 15 December 2022 invalidating the caste certificate issued to the Petitioner by the sub-Divisional Officer, as belonging to the Scheduled Tribe – Tokre Koli.

2. The Petitioner was working in the Thane Municipal Corporation and his caste certificate was sent for verification in the year 2013. Thereafter, the Vigilance Cell enquiry was conducted.

Copy of the report was given and thereafter, the evidence placed on record was considered by the Scrutiny Committee and the caste certificate was invalidated.

3. As regard the Petitioner's claim as belonging to Tokre Koli, the Vigilance Cell had placed the report on record which showed the entries in the Petitioner's immediate relative i.e. father, sister and grandfather as 'Hindu Koli' and the Petitioner's own school leaving certificate, the entry was Hindu (Other Backward Class abbreviation in Marathi). The entry in the Petitioner's grandfather Vedu Kautik Baviskar's school record of 5 January 1924 was 'Koli'. In respect of the Petitioner's father and sister, father Yuvraj and sister Asha, the entries of 20 July 1961 and 30 June 1975 were as 'Hindu Koli'.

4. The Scrutiny Committee after considering this evidence opined that since the entries in the Petitioner's case ranging from 1924 to 1979 were Koli or Hindu Other Backward Class, there was no evidence as the Petitioner belonging to Tokre Koli. The Scrutiny Committee rightly relied upon the decision of the Hon'ble Supreme Court in the case of *Kumari Madhuri Patil and Anr. v/s. Additional Commissioner, Tribble Development and Ors.*¹, in which it has been laid down that the documents prior to 1950 are germane. In the case of *Madhuri Patil*, the Hon'ble Supreme Court also negated the

1 1994 SCC (6) 241

contention that Koli is a generic term and also had dealt with the general contention of census records not being properly kept, and negatived it.

5. The learned Counsel for the Petitioner contends that the Petitioner had sought to invoke Section 9 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 and had sought to defer the hearing and to examine the witnesses as to the context in which the request was made. The learned Counsel for the Petitioner submitted that it was in the context of the Revenue Record. However, it is in respect of the grandfather which admittedly does not show the entry as 'Tokre Koli'.

6. The caste claim is pending since the year 2013. The report was of the year 2014 and therefore, the Scrutiny Committee rightly took into consideration the long pendency of the report and even otherwise this document does not bear the entry as Tokre Koli. The Scrutiny Committee has observed that an adequate opportunity was given to the Petitioner and an attempt of the Petitioner was somehow to defer the proceedings.

7. Section 8 of the Act of 2000 places burden on the claim to produce necessary documents. In the Petitioner's case even after 1950 in the Petitioner's father's and sister's cases, the entry has continued to be Hindu Koli. In fact there is not a single entry of Tokre Koli in the Petitioner's favour.

8. We do not find error in the approach undertaken by the Scrutiny Committee. The Petitioner has failed to produce adequate evidence in support of his claim. The evidence produced by the Vigilance Cell is against the claim set up by the Petitioner.

9. Therefore, there is no merit in the Petition. The Petition is accordingly dismissed.

10. We are informed that the Petitioner already stand terminated from the service.

SANDEEP V. MARNE, J.

NITIN JAMDAR, J.

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PRAKASH
PAWAR

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