

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

WRIT PETITION NO.11248 OF 2019

Sajan @ Hasan Saleem Kovadakar,	]	
Age : 29 years, Occ.: Nil	]	
R/of Post-Adkur, Tal.-Chandwad,	]	
Dist. Kolhapur, Maharashtra	]	.. Petitioner

Vs.

1. The State of Maharashtra,	]	
Through Caste Validity Scrutiny Committee,	]	
Pune Division, Pune	]	
2. The State of Maharashtra,	]	
Sub-Divisional Officer, Gaghinglaj Division,	]	
Dist. Kolhapur	]	.. Respondents

Mr. Prashant Aher for the Petitioner.

Mr. A.A. Alaspurkar. AGP for the Respondents.

**CORAM : A.S. CHANDURKAR &
M.W. CHANDWANI, JJ**

DATE : 17TH FEBRUARY, 2023.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. Rule. Rule made returnable forthwith and heard learned counsel for the parties.

2. The challenge raised in this writ petition is to the order passed by the Caste Scrutiny Committee, Pune dated 11th April 2019 dismissing the appeal

preferred by the petitioner that was filed for challenging the order passed by the Sub-Divisional Officer, Gadhinglaj, District Kolhapur, (*for short "SDO"*), on 14th November 2018 refusing to issue a Tribe Certificate to the petitioner.

3. The petitioner claims that he and his forefathers belong to "Tadvi Scheduled Tribe", which is at Entry No.13 of The Constitution (Scheduled Tribes) Order, 1950. The petitioner's father moved an application before the Sub-Divisional Officer seeking issuance of Tribe Certificate along with various documents. The SDO noted that the petitioner's father professed Muslim religion and therefore, it could not be said that he belonged to Tadvi – Scheduled Tribe in absence of any documents in that regard. He proceeded on the basis that the petitioner's father was claiming to belong to "Muslim Tadvi" and for that reason, he refused to issue the Tribe Certificate. The petitioner's father challenged the said order by filing an appeal under Section 5 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (*for short "Act of 2000"*). The Scrutiny Committee, after considering the documents placed on record, refused to interfere with the order passed by the SDO primarily on the ground that there was no entry in the Constitution (Scheduled Tribes) Order, 1950 as "Muslim Tadvi". Being aggrieved, the petitioner's father had filed this writ petition on 24th June 2019 challenging the same. During pendency of the writ petition, on account of death of the original petitioner, his son has been brought on record in his place.

4. The learned counsel for the petitioner submitted that the SDO as well as the Scrutiny Committee committed an error in holding that the petitioner's father had failed to prove that the family belong to Tadvi Scheduled Tribe. Merely because the family professed Muslim religion, the same could not be a reason to deny consideration of the claim as made. It was further submitted that before the Scrutiny Committee, the petitioner's father had placed various documents to indicate the fact that his predecessors belonged to the said Scheduled Tribe; however, without considering the same, the appeal came to be dismissed. The learned counsel has relied on the decisions of the Division Bench of this court in *Saba Iram Sayeed Khan Vs. State of Maharashtra and Ors., along with connected matter*¹; *Anand Vs. Committee For Scrutiny and Verification of Tribe Claims and Ors.*²; and *Khan Namirah Khanum Abdul and Anr. Vs. State of Maharashtra and Ors.*³, to urge that even if a person was professing Muslim religion, he could claim to belong to Tadvi Scheduled Tribe. It was thus submitted that, by setting aside the order passed by the authorities, the petitioner be issued requisite Tribe Certificate.

5. The learned Assistant Government Pleader for the respondents opposed the aforesaid submissions. According to him, since the SDO and thereafter the Scrutiny Committee found that the petitioner had failed to place on record relevant documents, the claim, as made, was negated. The burden to prove that

1 2021 SCC OnLine Bom 1605

2 (2012) 1 SCC 113

3 2019 SCC OnLine Bom 1442

the petitioner was entitled to issuance of Tribe Certificate had not been discharged and hence there was no reason to interfere with the impugned orders.

6. Having heard learned counsel for the parties and having perused the documents on record, we find that Entry No.13 in the Constitution (Scheduled Tribes) Order, 1950 relates to "Tadvi". Mere fact that the petitioner and his family members were professing Muslim religion, would not be a reason for denying consideration of such claim, as made. The decisions of this Court in *Saba Iram Sayeed Khan, Anand* and *Khan Namirah Khanum Abdul (supra)* are clear on this aspect. The same therefore cannot be a reason for not considering the petitioner's claim for issuance of such Tribe Certificate.

7. It is found that, before the SDO, the petitioner placed on record documents of his father relating to his education. The SDO however was not satisfied with the said documents and hence refused to issue the Tribe Certificate. Thereafter, before the Scrutiny Committee, the petitioner's father filed additional documents after conclusion of the hearing but before the order could be passed. We have perused those documents that have been placed on record and the same pertain to the pre-independence period. An affidavit of the petitioner's father dated 2nd April 2019 contains the genealogical tree of the petitioner's family. On a prima facie consideration of these documents, we find that the petitioner deserves to be granted an opportunity to place before the SDO, these old documents along with his Family Tree to indicate his

relationship with the said persons. It is well settled that determination of social status of a person deserves serious consideration and the same has an effect on the entire family. For that reason, we are inclined to remand the proceedings to the SDO to reconsider the matter, especially in the light of the additional documents that were filed before the Scrutiny Committee.

8. Hence, for the aforesaid reasons, we pass the following order :-

- (i) The order dated 11th April 2019 passed by the Caste Scrutiny Committee, Pune Division, Pune as well as the order dated 14th November 2018 passed by the Sub-Divisional Officer, Gadhinglaj, Dist. Kolhapur, are set aside.
- (ii) The proceedings are remanded to the Sub-Divisional Officer, Gadhinglaj, Dist. Kolhapur, to consider grant of Tribe Certificate of belonging to "Tadvi", which is Entry No.13 in the Constitution (Scheduled Tribes) Order, 1950.
- (iii) The petitioner is at liberty to file additional documents before the Sub-Divisional Officer to substantiate his claim.
- (iv) The Sub-Divisional Officer shall take a decision on the petitioner's application in accordance with law, after giving due opportunity to him, within a period of eight

weeks of receiving the additional documents from the petitioner.

9. Rule is made absolute in aforesaid terms with no order as to costs. Writ Petition is disposed of.

[M.W. CHANDWANI, J.]

[A.S. CHANDURKAR, J.]