

Digitally
signed by
Amol
Diliprao
Nawale
Date:
2023.08.10
17:18:32
+0530

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

WRIT PETITION NO. 9430 OF 2023

Komal Rohidas Pawar

Aged about 18 years, Occu. Student

Residing at P/o. Bungalow No.10/B, Om
Niwas Housing Society, Vrindavan
Nagar, Adgaon Shivar, Tah. & Dist-
Nashik, Maharashtra-422003.

...Petitioner

V/s.

The Scheduled Tribes Caste

Certificate Scrutiny Committee,-through
it's Member Secretary and Deputy
Director, Nashik Division, having office
at 2nd Floor, Adiwasi Vikas Bhavan,
Gadkari Chawk, Nashik-422002

...Respondent

Mr. Piyush Pande a/w. Mr. Anandshingh Bayas for the Petitioner.

Mr. S. L. Babar, AGP for the State.

**CORAM : SUNIL B. SHUKRE &
RAJESH S. PATIL, JJ.**

DATED : 8th August, 2023

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

1. Rule. Rule is made returnable forthwith. Heard finally
by consent of learned counsel for the parties.

2. We find that even though there is in existence caste
validity certificate granted to Rohidas Dadaji Pawar father of the

Petitioner, it has not been considered appropriately by the Scrutiny Committee in order to reach its conclusions in the impugned order. In fact, it is not in dispute that Rohidas Dadaji Pawar is the father of the Petitioner, who possesses a certificate validating his claim and tribe certificate as belonging to Mahadev Koli schedule tribe. There is also a judgment rendered by a co-ordinate bench of this Court in the case of ***Prakash Subhash Bhopale v/s. Deputy Collector and Others*** reported in ***2015 (6) Bom. C.R. 554*** taking a view that it has been a consistent practice followed by the Scrutiny Committees from different jurisdictions to treat persons claiming to be belonging to Mahadev Koli as belonging to schedule tribe in terms of the 1950 constitutional order, which declares a tribe known as Koli Mahadev as the schedule tribe. In this judgment, the coordinate bench has held that even the judgment of the Apex Court in the case of ***Madhuri Patil & Anr V/s. Additional Commissioner, Tribunal Development & Ors.***, reported in ***(1997) 5 SCC 437*** refers to a tribe known as Mahadev Koli and that it is not a matter of dispute that in past, tribe certificates have been issued referring to tribe as Mahadev Koli and those certificates have been validated by the Scrutiny Committees after observing the procedure prescribed in the matter of ***Madhuri Patil*** (supra) as well as 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. In its observations, the coordinate bench gave liberty to the Petitioner therein to approach the concerned SDO for obtaining of fresh tribe

certificate and further liberty to produce the same for its verification before the concerned tribe Scrutiny Committee. These observations of the coordinate bench of this Court assume importance in the facts and circumstances of the case and need to be considered appropriately by the Scrutiny Committee. Then, the validity certificate granted to the father of the petitioner has not been rejected by the Scrutiny Committee on the ground that it shows Rohidas Dadaji Pawar as a person belonging to Mahadev Koli tribe, which is not a schedule tribe as per the relevant constitution order. The Scrutiny Committee has rejected this validity certificate only on the ground that the vigilance cell though made enquiry, did not make enquiry in respect of certain entries, which in the opinion of the Scrutiny Committee were inconsistent with tribe claim made by the father of the Petitioner and therefore, the Scrutiny Committee held that no evidenciary value could be attached to that certificate. These observations of the Scrutiny Committee show that the Scrutiny Committee in the present case has acted as an Appellate Authority over the Scrutiny Committee, which had issued validity certificate to father of the Petitioner, which is not permissible in law.

3. The sum and substance of the discussion made herein above is that the Scrutiny committee has failed to appreciate the facts and circumstances of the present case in their proper perspective and has failed to correctly apply law governing the field and especially to the validity certificate granted to the father of the petitioner. Thus, we find that there is a serious error

committed by the Scrutiny Committee warranting interference by this Court.

4. This Writ Petition is therefore, allowed. The impugned order is hereby quashed and set aside and the matter is remanded back to the Scrutiny Committee for fresh consideration of the entire issue, in the light of the validity certificate granted to the father of the Petitioner, keeping in view the observations made herein above. The Scrutiny Committee shall decide the claim of the Petitioner as expeditiously as possible, preferably within three months from the date of appearance of the Petitioner before it. The Petitioner shall appear before the Scrutiny Committee on 31st August, 2023 at 11.00 a.m..

(RAJESH S. PATIL, J.)

(SUNIL B. SHUKRE, J.)