

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10038 OF 2023

Bhavika Sudhakar Thale through Father and ...Petitioners
Natural Guardian

Versus

State of Maharashtra through its Secretary, Tribal ...Respondents
Development Department & Ors

Mr RK Mendadkar, with Komal Gaikwad, for the Petitioner.

Mrs AA Purav, AGP, for the Respondent-State.

Mr Yashodeep Deshmukh, with Vaidehi Pradeep, for Respondent No.

3.

**CORAM G.S. Patel &
 Neela Gokhale, JJ.**

DATED: 11th August 2023

PC:-

1. Rule.

2. The Petitioner's claims to belong to the Dongar Koli Scheduled Tribe. She is aggrieved by the rejection of her application for a validity certificate on 26th July 2023 by the 2nd Respondent, the Scheduled Tribe Certificate Scrutiny Committee, Konkan Division.

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3. We have seen the material on record and impugned order. To our mind the order is thoroughly unsatisfactorily from any perspective. We are not endeavouring to address the merits of the matter but addressing the decision making process.

4. A fundamental principle in judicial review of quasi-judicial or administrative action is to assess whether the authority in question has rendered a decision in a manner that is proper in law. Apart from rules of natural justice, there must be a demonstration that relevant material has not been ignored nor irrelevant material considered. Reasoning is required and there must be a demonstrated application of mind to the material at hand.

5. The claim is in regard to Dongar Koli. At pages 32 and 33 is a list of 19 relatives. The bulk of these are said to be Dongar Koli and there are certificates that pre-date the Constitution. Notable amongst these is the school certificate of one Prabhakar Arjun Thale, the grandfather of the Petitioner. His tribe is shown as Dongar Koli.

6. Prabhakar had three sisters, Vatsalabai, Pushpa and Mankibai. Vatsalabai had a document showing her Scheduled Tribe as Dongar Koli so did Mankibai. Vatsalabai's document is of 1944. Prabhakar's is also of 1944. Mankibai's is of 1939. But Pushpa's document which is of 1948, says only Koli. The Committee has relied only on the entry of Koli against Pushpa Thale, ignored all three of the siblings' certificates and

therefore proceeded to reject the claim. There is in addition the fact that a document was produced for one Harishchandra Arjun Thale, the granduncle of the Petitioner. This is a document of 1946 with the endorsement of Dongar Koli. There are of course other documents that are after the Constitution but even these are of considerable vintage of 1963, 1975, 1958 and so on. It is true that there are other relatives merely shown as such who have endorsements of son Koli or just Koli but Mr Mendadkar says that while these have been listed, they do not form of the genealogy of the Petitioner.

7. We do not see how the Committee could have so totally ignored the directly relevant and applicable material on record and selectively picked up one contra entry alone.

8. The Petition succeeds. Rule is made absolute in terms of prayer clauses (a) and (b).

“(a) This Hon’ble Court be pleased to issue Writ of Certiorari and or any other Writ, Order or Direction in the nature of Certiorari thereby quashing and setting aside the impugned order dated 26.7.2023 passed by the Respondent no. 2 committee with further direction to Respondent no. 2 committee to issue certificate of validity in relation to caste certificate dated 20.11.2013 issued by the competent authority of jurisdiction.

(b) That this Hon’ble Court be pleased to hold and declare that the petitioner belongs to Dongar Koli tribe which is listed at entry no. 29 of the Part

IX Second Schedule appended to the SC/ST Orders (Amendment) Act, 1976.”

9. The certificate is to be issued by the Committee by 14th August 2023. The Committee will act on production of an authenticated copy of this order.

10. The Petitioner is required to submit this certificate by 16th August 2023.

11. If for any reason the certificate cannot be obtained or uploaded by 16th August 2023, the college in question and all admission authorities will permit an extension of time on the basis of this order for uploading the validity certificate noting that we have directed the issuance of a validity certificate.

(Neela Gokhale, J)

(G. S. Patel, J)