

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

WRIT PETITION NO. 159 OF 2023

Sainath Shankar Rasolgikar

..... Petitioner

Vs.

The State of Maharashtra & Ors.

..... Respondents

Mr. S. C. Yeramwar for the Petitioner

Mr. P. P. Kakade, GP a/w. Mrs. R. A. Salunkhe, AGP for the State

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : MARCH 13, 2023

PC : (PER : ACTING CHIEF JUSTICE)

1. Rule.

Rule is made returnable forthwith.

By consent of the parties, taken up for final disposal.

2. The caste claim of the Petitioner as Koli Mahadev, Scheduled Tribe is invalidated.

3. The Petitioner relied upon the school record of his grandfather Sidram Bhimanna Rasolgikar, wherein his date of admission is shown of the year 1955 and the caste is recorded as Hindu Mahadev Koli. The Committee has also relied upon one document of Sidram Bhimanna Rasolgikar wherein the date of birth is recorded as 12th

May 1943 and the date of admission in the school is 21st November 1950. Both the entries cannot be of one and the same person, as the date of birth of both the persons are different though the name appears to be the same.

4. The Petitioner claims that his grandfather born on 1st June 1948 and was admitted to the 1st standard on 18th June 1955. Neither the vigilance nor the Committee has opined as to what would be the correct entry of the Petitioner's grandfather. The vigilance has verified both the documents and submitted its report. The said documents being old, will have probative value.

5. In light of the aforesaid scenario, it was necessary for the Committee to conclude, as to which school record is the genuine school record of the grandfather of the Petitioner Sidram Bhimanna Rasolgikar. The said exercise does not seem to have been conducted by the Committee.

6. In the result, we are inclined to remit back the matter to the Committee to consider both the entries and come to the conclusion, as to the real entry of the grandfather of the Petitioner Sidram Bhimanna Rasolgikar.

7. Hence, we pass the following order:

- a. The impugned judgment is quashed and set aside.
- b. The parties are relegated before the Committee. The parties shall appear before the Committee on 31st March 2023.
- c. The Committee, if so desire, may conduct fresh home inquiry or vigilance and may arrive at conclusion as to the correct entry of the school record of the grandfather of the Petitioner viz. Sidram Bhimanna Rasolgikar. The Petitioner is also entitled to put-forth his say. The Committee shall thereafter decide the proceedings within six months.
- d. As the impugned order of the Committee is quashed and set aside, the impugned order placing the Petitioner on supernumerary post is also set aside. The employer, depending upon the judgment that would be delivered by the Committee, may take further decision.
- e. Rule is accordingly made absolute.
- f. The Writ Petition is disposed of. No costs.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)