

N.S. Kamble

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12487 OF 2022
WITH
INTERIM APPLICATION (ST) NO. 1084 OF 2023
IN
WRIT PETITION NO. 12487 OF 2022**

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Paratik Laxman Devare ...Petitioner
Versus
State of Maharashtra & Anr ...Respondents

**WITH
WRIT PETITION NO. 12485 OF 2022**

Rushikesh Laxman Devare ...Petitioner
Versus
State of Maharashtra & Anr ...Respondents

**WITH
WRIT PETITION NO. 12486 OF 2022**

Laxman Yashwant Devare ...Petitioner
Versus
State of Maharashtra & Anr ...Respondents

**Mr Yashodeep Deshmukh, with Vaidehi Pradeep for the Petitioner in
all Writ Petitions.
Mrs SS Bhende, AGP, for the Respondent-State.**

**CORAM G.S. Patel &
 S.G. Dige, JJ.
DATED: 19th January 2023**

PC:-

1. In these three Writ Petitions the challenge is to an order dated 24th January 2022 passed by the 2nd Respondent, the Caste Scrutiny Committee, Nashik invalidating the caste claim of the Petitioners as members of the Mahadev Koli Scheduled Tribe. Mr Deshmukh has assailed that the impugned order *inter alia* on the basis that the Scrutiny Committee did not properly consider the material placed before it by the Petitioners.

2. We have considered the impugned order carefully. We are unable to accept the submission by Mr Deshmukh. The impugned order itself shows, and Mr Deshmukh does not seriously contest this, that the supporting documents adduced by the Petitioners were, at the very least, inconsistent. Eleven of the 14 documents of persons from the paternal side were shown as been either Hindu Koli or Hindu Mahadev Koli. Two people were shown as Hindu Mahadev Koli. One was shown as Hindu Koli (Mahadev). The others were all shown as Hindu Koli. Of the entire group of 14 only two had entries as Mahadev Koli.

3. Mr Deshmukh would have it that despite this we must hold that the Committee was wrong because the Petitioners then produced certificates of others, and these were brushed aside by the Committee. These other certificates are noted as being of persons

from the maternal side. The Committee noted that a caste claim follows paternity. It cannot be that once a claim based on documents from the paternal side fails the Committee must validate the caste certificate by doing a deep investigation into documents of persons from the maternal side. Mr Deshmukh's submission that the Committee ought to have investigated into the caste certificates of those on the maternal side — should have enquired whether there were inter-caste marriages, done a detailed genealogical tracing, etc. — does not commend itself to us at all. The suggestion seems to be that the Petitioners had only to produce maternal-side documents. The rest was up to the Committee.

4. The affinity test was negative. Mr Deshmukh claims that the report was not given to him. He says on the basis of the decision of this Court in *Chandrashekhar Gaikwad Versus State of Maharashtra*¹ that the Petitioners were entitled as a matter of course to a copy of the adverse report and not just the final observation. The submission is not well founded. The Division Bench in *Chandrashekhar Gaikwad*'s case found that the order was perverse. There was no documentary evidence. The claim was invalidated *solely* on the Vigilance Cell Report. That is not the case here. The impugned order shows a careful, elaborate and studied application of mind to and consideration of the relevant material. This is not a case where some other view is possible. The Committee's conclusion is that on the material presented by the Petitioners it was not possible to conclusively return a finding that the Petitioners belong to the caste claimed.

¹2016 (1) MLJ 94.

5. We cannot permit the Petitioners to convert our writ jurisdiction into that of a First Appellate Court. It is true that under Article 226 of the Constitution of India, a High Court enjoys wide, equitable and discretionary powers. But these powers are not unfettered or unrestricted. Our jurisprudence has well established limitations on the exercise of powers by a writ court. It can never function as a First Appellate Court. In Petitions such as these, we are asked to undertake judicial review of quasi-judicial orders. When we do so, we do not sit in appeal. This is emphatically not a regular First Appeal. We cannot substitute an otherwise valid decision of the Committee by our view only because a different view is possible. It must be shown that the decision-making process is vulnerable. It is for this reason that we decline to examine the submissions based on evidence such as what a particular revenue record said or did not say. The Committee correctly addressed itself to the preponderance of evidence before it to draw its conclusions.

6. We see no vulnerability in the decision-making process.

7. We find no merit in these Petitions. They are all rejected. In the facts and circumstances of the case, there will be no order as to costs.

(S.G. Dige, J)

(G. S. Patel, J)