



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

Writ Petition No.8001/2023

Smt. Sharda Arjuna Mankar,  
@ Sau. Sharda Tulshiram Godghase,  
Aged about 35 years, Occ-....,  
R/o.- Supkhela, Tahasil and District Washim.

... Petitioner.

---Versus---

1. State of Maharashtra through its Secretary,  
Ministry of Social Justice and Tribal Welfare Department,  
Mantralaya, Mumbai- 400032.
2. Scheduled Tribe Caste Certificate Scrutiny Committee, Yavatmal,  
through is Deputy Director/ Member-Secretary.
3. District Collector, Yavatmal.
4. Election Officer and Tahasildar, Washim. .... Respondents.

Mr. Kunal Nalamwar, Advocates for petitioner.  
Mr. D.P. Thakre, Addl.AGP for respondent nos.1 to 4.

**CORAM : Nitin W. Sambre & Abhay J. Mantri, JJ**  
**DATE : 06-12-2023.**

**ORAL JUDGMENT** (Per- Nitin W. Sambre, J.)

The challenge is to the order dated 31-10-2023 passed by the respondent no.2 Scheduled Tribe Caste Certificate Scrutiny Committee, Yavatmal. By the said order, the claim by the petitioner as that of belonging to "Koli Mahadeo" Scheduled Tribe came to be negated.

2. Respondent Authority issued to petitioner a certificate in Form "C" under the provisions of the Maharashtra Scheduled Caste, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short, "the Act"), based on an application dated 13-08-2022. Based on such certificate as that of belongs to "Koli Mahadeo" Scheduled Tribe, the petitioner got elected as a Sarpanch of the Village Panchayat Supkhela.

3. As the petitioner was elected on the seat which was reserved for Scheduled Tribe category for the post of Sarpanch, the petitioner in law was duty-bound to produce the validity certificate. That being so the claim was submitted to the respondent Committee for deciding the claim for validity. The respondent Committee after following due process of law viz. base on Vigilance Cell enquiry, the affinity test negated the claim vide impugned order as the petitioner failed to discharge the burden to the effect as provided under Section 8 of the Act.

4. The contentions of learned Counsel appearing for the petitioner are the respondent Committee has committed an error in ignoring the oldest document which is of 07-07-1994. According to him, the primary school record of the petitioner in categorical terms detects that the petitioner belongs to "Koli Mahadeo" Scheduled Tribe. He would further urge that prior to

the aforesaid date i.e. 07-07-1994 there are entries of "Koli" as prior to the said date the caste "Mahadeo Koli" is not included in the Scheduled Tribe category.

5. In addition to above, he would urge that the petitioner has demonstrated that she satisfy the affinity test and that being so order impugned is not sustained and is liable to be quashed and set aside with directions to the respondent Committee to issue validity certificate in favour of the petitioner.

6. While countering the aforesaid submissions, learned Additional Government Pleader Mr. Deepak Thakre, would urge that the Vigilance Cell Enquiry Report in categorical terms speaks of the petitioner not belonging to "Mahadeo Koli" Scheduled Tribe. According to him, the oldest document i.e dated 22-09-1950 in relation to the grandfather of the petitioner speaks of the entry "Koli". Apart from above, he would invite our attention to the other entries of 01-07-1968 in relation to Arjuna, father of the petitioner, wherein the caste entry "Koli" could be noticed in the school records. Similar is the case in relation to the uncles of the petitioner namely Bhiwa and Shivaji of the years 1959, 1961 and 1963. He would further urge that the affinity test was also applied and the petitioner has failed to satisfy the affinity of "Mahadeo Koli" Scheduled Tribe. That being so, he would urge that the petition is liable to be dismissed.

7. We have considered the rival submissions.

8. The Constitution of India (Scheduled Tribe) Order came into existence in the year 1950 and as such the judgment of the Hon'ble Apex Court in the matter of *Ku. Madhuri Patil vs Commissioner, Tribal Development* reported (1994) 6 SCC 241 provides that the evidence in support of the tribe claim as that of belonging to Scheduled Tribe prior to 1950 will have more probative value and such evidence can be accepted by the respondent Committee for the purpose of granting validity.

9. In the case in hand, the petitioner is able to produce only document of the year 1994 i.e the Primary School entry in relation to her admission to Zilla Parishad Senior Primary School, wherein her caste is mentioned as "Koli Mahadeo". Apart from above, the other documents which the petitioner has produced on record are that of the affidavits sworn by her and the certificate issued by the Sarpanch of the Village Panchayat which is undated.

10. The fact remains that the 1994 document particularly entry as regards the scheduled tribe needs an explanation from the petitioner as a person gets its caste by birth. Once the caste entry in relation to grandfather, father and uncle of the petitioner is recorded as "Koli" way back from 1950 onwards, the petitioner must give an explanation for incorporation of such an entry in the primary school record that too in 1994 as that of "Koli Mahadeo".

11. A perusal of the pleadings in the petition so also the reply tendered by the petitioner before the respondent Committee do not give any satisfying explanation to the said effect. As such, we are of the view that the petitioner has incorporated the entry "Koli Mahadeo" in the primary school record only for the purpose of gaining benefit that too when she is not entitled for such benefit in view of the earlier caste entries in her parents school record which is "Koli". The fact remains that the caste "Koli" is not included in the scheduled tribe order.

12. Apart from the above, we have perused the impugned order also in relation to the observations recorded pertaining to the satisfaction of the affinity test the respondent Committee in detail has gone in considering the case of the petitioner by applying the affinity test and has noticed that the petitioner has failed to demonstrate that the rites, customs and traditions which are followed by the petitioner matches with that of the one which are followed and practiced by the "Koli Mahadeo" scheduled tribe.

13. In the aforesaid background, there is hardly any material to infer that the petitioner belongs to "Koli Mahadeo" scheduled tribe.

14. Rather the record collected by the Vigilance Cell and brought to the notice of the Scheduled Tribe Committee depicts that the petitioner belongs to "Koli" and not "Koli Mahadeo"

scheduled tribe. The petitioner has unreasonably and dishonestly tried to take advantage of the only entry in the primary school record in relation to her caste which goes contrary to the record of her grandfather, father and uncle.

15. That being so, no case is made out for causing interference. The petition, as such, stands dismissed with costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)