



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 WRIT PETITION NO.7764 OF 2019

- 1 Yogesh Namdeo Koli,
Age 29 yrs., Occ. Nil,
R/o Padalde (Bk), Tq. Shahada,
Dist. Nandurbar.
- 2 Gopal Ashok Koli,
Age 32 yrs., Occ. Nil,
R/o Padalde (Bk), Tq. Shahada,
Dist. Nandurbar.
- 3 Asha Uttam Adakmal (Koli),
Age 39 yrs., Occ. Nil,
R/o Padalde (Bk), Tq. Shahada,
Dist. Nandurbar.
- 4 Kalpana Uttam Koli,
Age 37 yrs., Occ. Nil,
R/o Padalde (Bk), Tq. Shahada,
Dist. Nandurbar.
- 5 Ganesh Uttam Koli,
Age 33 yrs., Occ. Nil,
R/o Padalde (Bk), Tq. Shahada,
Dist. Nandurbar.
- 6 Bhagwan Uttam Koli,
Age 30 yrs., Occ. Nil,
R/o Padalde (Bk), Tq. Shahada,
Dist. Nandurbar.

... Petitioners

... Versus ...

- 1 The State of Maharashtra
Through its Secretary,

Tribal Development Department,
Mantralaya, Mumbai – 32.

- 2 The Scheduled Tribe Certificate Scrutiny
Committee, Nandurbar.
Through its Deputy Director (R),
Nandurbar.
- 3 The Sub Divisional Officer,
Shahada, Tq. Shahada,
Dist. Nandurbar.

... **Respondents**

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Mr. P.V. Jadhavar, Advocate for petitioners
Mr. P.S. Patil, AGP for respondent Nos.1 to 3

...

**CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.**

DATE : 18th JANUARY, 2024

JUDGMENT : (PER : SMT. VIBHA KANKANWADI, J.)

1 Rule. Rule made returnable forthwith. Heard learned Advocates
for the parties finally, by consent.

2 The petitioners prayer for issuing Tribe Certificate for “Koli Dhor”
Tribe came to be rejected by Sub Divisional Officer, Shahada, Tq. Shahada,

Dist. Nandurbar on 06.01.2017. Thereafter they had preferred an appeal before respondent No.2 – Committee, however, their appeal came to be dismissed on 07.02.2019. Hence, the petitioners have approached this Court for following reliefs by invoking the constitution provisions under Article 226 of the Constitution of India.

“B) By way of an appropriate writ, order or direction in like nature may kindly quash and set aside impugned orders dated 07.02.2019 passed by scrutiny committee and orders dated 06.01.2017 passed by Sub Divisional Officer, Shahada, Dist. Nandurbar.

C) By way of an appropriate writ, order or direction in like nature may kindly issue direction against the Sub Divisional Officer, Shahada, Dist. Nandurbar, to issue tribe certificate in favour of petitioners as belongs to ‘Koli Dhor’ Scheduled Tribe.”

3 Petitioners are the relatives i.e. from one family and, therefore, approached respondent No.3 with a request to issue Tribe Certificate to them. It was contended that they belong to ‘Dhor Koli’. Documents were produced before respondent No.3, who negatived the claim on the ground that some of the documents, which were produced on record of the family members, show the caste as ‘Tokre Koli’ and not ‘Dhor Koli’. The petitioners contend that in pursuance of Rule 4(9) of the Scheduled Tribe’s Rule, 2003 framed under the Verification Act, 2000 the revenue officer has to conduct an inquiry regarding

the tribe claim by visiting the place of the petitioners and also to take into consideration the documents in support. The verification of the documents has not been done in proper manner. Reasons ought to have been recorded. The exercise undertaken by the authorities is as if they were issuing validity certificate. The certificate that was claimed was subject to the validity certificate and, therefore, there was no hurdle for respondent No.3 to issue the Tribe Certificate.

4 Heard learned Advocate Mr. P.V. Jadhavar for the petitioners and learned AGP Mr. P.S. Patil for respondent Nos.1 to 3.

5 Important point to be noted is that all the petitioners claim for issuing Tribe Certificate appears to have been rejected by respondent No.3 on the same day i.e. on 06.01.2017, but by different orders. In the said order respondent No.3 has also taken into consideration the area restriction. It is observed that persons from 'Tokre Koli' Tribe are not found in Nandurbar district. Respondent No.2 – Committee in its appellate jurisdiction has given almost the same reasons. It was observed that though the appellants were from same family, there are documents showing that they are from 'Dhor Koli', 'Tokre Koli' and 'Koli' Tribe.

6 The first and the foremost fact ought to have been considered by

respondent No.3 was that the said authority was deciding the claim of the petitioners that they are of 'Dhor Koli' Tribe and the said proceedings was for issuance of Tribe Certificate. Such certificate would be subject to the validity. The oldest documents were appeared to be from birth and death register of the year 1947 that was the pre-constitutional document. The three documents which were produced were showing that birth of Uttam Handu Anaji was on 28.11.1947, Bansi Handu Anaji who was born on 07.11.1946 and Kanti Bandu Anaji born on 23.08.1947. It is in respect of father of petitioner Nos.3 to 6, uncle of petitioner Nos.3 to 6 and paternal aunt of petitioner Nos.3 to 6. The impugned order passed by respondent No.3 makes a mention about these three documents, but there is absolutely no reason for discarding these pre-constitutional documents. Same course was adopted in the appeal. Further, there appears to be another document of pre-constitutional era of the year 1912, which was the school leaving certificate of Manga Muka Koli, who can also be seen in the genealogy as belonging to the family of the petitioners. In the said school leaving certificate also his caste/Tribe has been said to be 'Dhor Koli'. Thus, the said school record of the year 1912 appears to be the oldest document and when there was no material before respondent No.3 as well as then in appeal before respondent No.2 to show that there is any manipulation in the said record, those documents ought to have been considered as prima facie documents to

support the contention of the petitioners and on that basis the certificate ought to have been issued. The rules for issuing Tribe Certificate show that prima facie documents are required to be considered at the time of issuing certificate and, therefore, both the authorities have erred in rejecting the claim of the petitioners. Case is made out for exercise of the constitutional powers of this Court. Hence, the following order.

ORDER

1 The Writ Petition stands allowed in terms of prayer clause (B) and (C).

2 Rule is made absolute in the aforesaid terms.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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