



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 WRIT PETITION NO. 9231 OF 2021

1. PANKAJ ROHIDAS THAKARE
2. RAKESH ROHIDAS THAKARE
3. YOGESH ROHIDAS THAKARE
4. ROHIDAS RAMDAS THAKARE (KOLI)
5. SARTHAK HIRALAL THAKARE
6. BHAVNA HIRALAL THAKARE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Mr. Jadhavar Pratap V.

AGP for Respondents : Mr. S.P. Joshi

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**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 13 NOVEMBER 2024

PER COURT :

1. Considering exigency in the matter, with consent of the learned counsel for the petitioners and AGP for the respondent heard finally at the admission stage.
2. This writ petition is directed against concurrent finding of facts recorded by competent authority i.e. respondent no. 3 / Sub-Divisional Officer and appellate authority i.e. respondent no. 2, rejecting the applications of the petitioners seeking tribe certificates.
3. Petitioner nos. 1 to 4 are the siblings and petitioner nos. 5 to 6 are their blood relatives. They claim to be belonging to scheduled tribe 'Tokre Koli'. They filed distinct applications seeking tribe certificates by producing relevant material before the Sub-Divisional Officer. Their claims were rejected by separate orders

passed by the Sub-Divisional Officer on 31.08.2018. Being aggrieved, thereby, they had preferred separate appeals before respondent no. 2 / Scrutiny Committee. By a common judgment and order dated 27.07.2020, the appeals were dismissed.

4. Learned counsel for the petitioners submits that both the authorities below committed grave error of jurisdiction in conducting in depth enquiry when the matter is at the stage of issuing tribe certificate. The approach of both authorities is against law laid down by this Court in the matter of Anand Dhananjay Nalawade Versus State of Maharashtra and Others, in Writ Petition No. 6391/2013. It is further submitted that the Sub-Divisional Officer did not consider the entire documentary evidence and only the school record of Bhaidas Elji Koli was considered and castigated to be suspicious. It was incumbent upon the trial authority to consider the tribe certificates issued to the cousins of the petitioners. He would advert our attention to the genealogy and the tribe certificates indicating that Vivek Thakare, Sandip Thakare and Arunkumar Thakare, were issued with tribe certificates. It is submitted that voluminous evidence was before the competent authority as well as appellate authority, for issuing the tribe certificates.

5. Learned AGP supports impugned judgment and order. He would submit that the school record of blood relative of the petitioners Bhaiji Elji Koli was found to be doubtful after conducting the enquiry. No evidence of prior to deemed date was produced. The scrutiny Committee is justified in rejecting the appeals. He would further submit that the record produced by the

petitioners was found to be doubtful. Therefore, tribe claims are rightly rejected by the Committee.

6. It reveals from record that the school record of Bhaidas Elji Koli was examined by the Sub-Divisional Officer as well the Scrutiny Committee. Considering the report submitted in that regard it was held to be suspicious because there was difference in the caste of the school register extract and school leaving certificate. We do not find that any other material has been taken into account by the authorities. It was expected from both authorities below to consider the entire material on record while determining the claim of the petitioners.

7. We are guided by the law laid down by the co-ordinate bench in the matter of Anand Dhananjay Nalawade (supra), in which the scope of the enquiry under Section 5 (1) of the The Maharashtra Scheduled Castes, 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, has been laid down. The thread bear enquiry is not contemplated for such proceeding. The enquiry conducted by the Sub-Divisional Officer while examining the school record of blood relatives of the petitioner can be considered for the caste verification and the scrutiny of the tribe certificate and not at the stage of issuing tribe certificate.

8. We have gone through the genealogy and the tribe certificates of Vivek, Sandip and Amitkumar, produced on record. Undoubtedly, they are the close blood relative of the petitioners. Therefore, their certificates would enure the benefit to the

petitioners. *Prima facie*, those certificates were admissible for issuing the tribe caste certificates to the petitioners.

9. Considering the material produced by the petitioners which can be seen from ground no. 2.5 of the appeal memo, we have no doubt a sufficient material was placed before the competent authority as well as appellate authority to believe the tribe claim. We find that both authorities below have committed error of law and impugned judgments are liable to be quashed and set aside. We, therefore, pass following order :

ORDER

- i. Writ petition is allowed.
- ii. The judgment and order dated 27.07.2020 passed by respondent no. 2/ scrutiny committee and distinct orders dated 31.08.2018 passed by respondent no. 3 / Sub-Divisional Officer are quashed and set aside.
- iii. Respondent no. 3/ Sub-Divisional Officer shall issue tribe certificate to the petitioners as belonging to 'Tokre Koli' scheduled tribe in prescribed form within four weeks from today.

[SHAILESH P. BRAHME, J.]

[S.G. MEHARE, J.]