



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9251 OF 2024

- 1) Om s/o Yogesh Sonawane,
Age 18 years, Occ. Education.
- 2) Neha Yogesh Sonawane
Age 25 years, Occ. Education.
- 3) Diksha Yogesh Sonawane,
age 27 years, Occ. Education.
All r/o. Mangalmurti Park, Devndra
Nagar, Jalgaon, Tq. & Dist. Jalgaon. ... **Petitioners**

VERSUS

- 1) The State of Maharashtra
- 2) The principal, ILS Law college,
Law College Road, Shivajinagar, Pune.
- 3) The Deputy Director Cum Member Secretary
The Scheduled Tribe Certificate Scrutiny
Committee, Dhule, Tq. & Dist. Dhule. ... **Respondents.**

...
Advocate for Petitioners : Mr. S.B. Bhosale
A.G.P for Respondent nos. 1 & 3 : Mr. S.R. Yadav-Lonikar
...

CORAM : **MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : **28.08.2024**

ORDER : (MANGESH S. PATIL, J.)

Heard both the sides finally with consent.

2. In order to secure admission to five year (integrated) LL.B. course, petitioner no. 1 is in need of a certificate of validity of 'Tokre Koli' scheduled tribe. By the order under challenge the committee has discarded their claim.
3. The learned advocate for the petitioner would submit that although

the committee has referred to several entries wherein petitioners' ancestors were recorded as 'Koli', it could not have treated the entry as contrary to the claim of 'Tokre Koli'. The petitioners were also relying upon documentary evidence to demonstrate that their ancestors being tribal were allotted different lands and they were occupying it as 'Inams' being Class II occupants under the Bombay Inferior Watans Abolition Act, 1958. The committee did not consider such important piece of evidence.

4. The learned advocate would further submit that the Constitution (Scheduled Tribes) Order, 1950, made by the President under Article 342 of the Constitution was amended by the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. In Second Schedule, to the extent of Part IX, State of Maharashtra, entry No. 28 expressly included 'Koli'. He would further submit that even if there is a pre-constitutional record referring to the petitioners ancestors as being 'Koli', it could not have been treated as a contrary entry. He would, therefore, submit that the stand of the committee in discarding the petitioners' claim is unsustainable in law.

5. The learned A.G.P would oppose the petition. He would submit that the petitioners claim to be 'Tokre Koli' whereas the committee could notice that there are several entries of the blood relatives of the petitioners' ancestors of the pre-constitutional period, describing them to be 'Koli'. Though there are subsequent, post independence period favourable entries, those are of recent origin, of 1990 onwards. The pre-constitutional evidence will have greater probative value and were sufficient to discard the petitioners claim.

6. The learned A.G.P would further submit that though in the Amendment Act of 1976, word 'Koli' appeared in entry Sr.No. 28, a corrigendum was issued and duly published in the Gazette of India Extraordinary on 20th September 1976, and the entry at Sr. No. 28 was corrected. Though it was earlier reading 'Koli', 'Dhor', it was corrected as

‘Koli Dhor’. No fault can be found with the committee in discarding the claim based on the pre-constitutional contrary record of ‘Koli’, which was earlier Other Backward Class and is currently Special Backward Class.

7. We are with the learned advocate for the petitioner to the extent he referred to **State of Maharashtra Vs. Milind Katware and others; (2001) 1 SCC 4**, that any entry in the scheduled castes or scheduled tribes notification will have to be read as it is. However, though the Amendment Act of 1976, Sr. No. 28 was containing aforementioned entry apparently covering even ‘Koli’, there was a corrigendum duly published and the error was corrected. Meaning thereby that entry Sr. No. 28 would not cover ‘Koli’, which was earlier treated as Other Backward Class but subsequently was included in Special Backward Class category.

8. The committee has referred to the pre-constitutional record of the petitioners blood relatives wherein they were described as ‘Koli’ or ‘Hindu Koli’ :

Sr. No.	Name of document	Persons name on the documents	Relationship with the applicant	Entry regarding caste	Admission/ registration date
1)	School record	Ukharadu Sadu	Cousin great great grandfather	Koli	21.07.1918
2)	Form No. 14	Fakira s/o Dhondu Sadu Koli	Cousin great grandfather	Koli	28.06.1928
3)	Form No. 14	Bansi Dhondu Sadu	Cousin great grandfather	Koli	17.06.1932
4)	School record	Kashiram Goma Koli	Great grandfather	Koli	01.11.1938
5)	Form No. 14	Zenju Parbat Sadu	Cousin great grandfather	Koli	19.01.1941
6)	School record	Ukhardu Parbhat Koli	Cousin great grandfather	Hindu Koli	02.09.1946
7)	Form No. 14	Sadu Ishram	Great great grandfather	Koli	14.04.1947

The committee has also referred to and reproduced favourable record wherein the petitioners and their relatives have been described as 'Hindu Tokre Koli' but that record is of the period 1990 onwards.

9. Following the decision in the matter of **Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and Ors; (2012) 1 SCC 113**, the oldest record would have greater probative value and will have to be resorted to. In the light of the principle laid down therein, when there are aforementioned number of pre-constitutional entries in the school record and the birth record describing petitioners ancestors as 'Koli' which is contrary to the petitioners' claim of 'Tokre Koli', no fault can be found with the conclusion of the committee to discard their claims.

10. True it is that the committee ought to have but has not considered the stand of the petitioners on the basis of the revenue record wherein they were claiming that the lands were allotted to them under the Bombay Inferior Watans Abolition Act merely because they were tribals. However, when we requested the learned advocate for the petitioner to ascertain as to if the matter is to be remanded to the committee for reconsideration of the proposals in the light of the revenue record, on instructions, the learned advocate would submit that the petitioners are not ready to go back to the committee and insist for decision of the petition on merits.

11. Left with no choice, since the committee has expressly referred to the pre-constitutional record, which is *ex facie* inconsistent with the petitioners claim of belonging to 'Tokre Koli' scheduled tribe, the petition is liable to be dismissed.

12. The Writ Petition is dismissed.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-