



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10889 OF 2024

Chetan Rajendra Shinde .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Mohnish V. Thorat, Advocate for the Petitioner.
Shri P. S. Patil, A.G.P. for the Respondent Nos. 1 to 3.

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.
DATE : 04 OCTOBER 2024.**

FINAL ORDER :

. Leave is granted to correct the prayer clause 'B'.
Amendment to be carried out forthwith.

2. Heard both the sides finally at the stage of admission.

3. By way of this petition under Article 226 of the Constitution of India, the petitioner is challenging the order of the competent authority/respondent No. 3 refusing to issue him Tokre Koli tribe certificate and even the order of the respondent No. 2/Scrutiny Committee in an appeal U/Sec. 5 of the Maharashtra Act No. XXIII of 2001 (for short "Act") sustaining that order.

4. We have heard both the sides and perused the order of the respondent No. 2/Committee in the appeal, as is evident even from the observations of the Scrutiny Committee, there was a favourable school record of Tumdu Daga Koli of 1942, wherein he was described as Koli Tokre. Though the Committee in latter portion has referred to some material to suspect genuineness of the school record of school at Shelti and has also referred to several validity holders in the family and the steps being taken for recalling their validities on the ground of fraud and about having issued show cause notices to them, irrespective of the conclusion reached, it is indicative of the fact that there are several validity holders in the family of the petitioner.

5. Separate parameters have to be applied when a request is made for issuance of caste/tribe certificate U/Sec. 4 of the Act and a proceeding for validation, to be undertaken U/Sec. 7 of the Act. Every certificate issued U/Sec. 4 of the Act is subject to the validation proceeding to be undertaken. If the competent authority and even the Scrutiny Committee which is an appellate forum start examining the claims as if they are called upon to issue certificate of validity, the purpose of issuing caste certificate is completely lost.

6. Be that as it may, it would be in-comprehensible situation, wherein there are several validity holders in the family of the blood relatives, but petitioner even would not be issued with a certificate.

7. Even if Committee is of the view that petitioner does not belong to a particular caste or tribe, it can undertake a threadbare scrutiny in a proceeding U/Sec. 7 of the Act. The impugned order is in the form of preempting something.

8. This Court on number of occasions has emphasized that at the time of issuance of caste or tribe certificate only *prima facie* record is to be examined.

9. In the light of above, both the orders are not sustainable and deserve to be quashed and set aside and reversed.

10. The writ petition is allowed. The impugned orders are quashed and set aside. The respondent No. 3/competent authority shall issue tribe certificate to the petitioner of 'Tokre Koli' scheduled tribe within a period of two (02) weeks from today.

[SHAILESH P. BRAHME J.]

[MANGESH S. PATIL, J.]

bsb/Oct. 24