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wp 13909.23 R.odt

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

WRIT PETITION NO. 13909 OF 2023

Gunwant Kishor Shirsath
Age 19 years, Occ. Education,
R/o. Kanchanpur Village,
Tq. Sindkheda,
Dist. Dhule.

.. Petitioner

Versus

1. The State of Maharashtra
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai -32.
2. Joint Commissioner,
Scheduled Tribe Certificate Scrutiny
Committee, Dhule
Add. :- Sindhu Manik, Survey No.53
Near Eakvir Devi High School,
Sharda Nagar, Devpur, Dhule 424 005.

.. Respondents.

Mr. M.V. Thorat, Advocate for petitioner.
Mr. N.S. Tekale, AGP for respondent Nos. 1 and 2

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

**RESERVED ON : 25th JANUARY, 2024.
PRONOUNCED ON : 1st FEBRUARY, 2024.**

JUDGMENT [PER S.G. CHAPALGAONKAR, J] :-

1. Heard. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the parties.
2. The petitioner approaches this court under Article 226 of the

Constitution of India impugning the order dated 4th September 2023 passed by the Scheduled Tribes Caste Scrutiny Committee, Dhule thereby invalidating the tribe claim of the petitioner for “Tokre Koli” Scheduled Tribe.

3. Mr. M.V. Thorat learned advocate appearing for the petitioner would submit that the petitioner belongs to “Tokre Koli” Scheduled Tribe. The competent authority certified aforesaid fact by issuing caste certificate. The petitioner was aspiring for medical admission and appeared for NEET-UG of the year 2023. Therefore, his proposal for caste validity was forwarded to the Scrutiny Committee. The petitioner supported his caste claim by documentary evidence. The school admission entry of Sudam Goma Koli, the cousin great grandfather of the petitioner dated 10th August 1944 records his caste as Koli Tokre at the time of his school admission. Mr. Thorat would therefore urge that it being a pre-constitutional document, it possesses higher probative value. He would further submit that ‘Tokre Koli’ or ‘Dhor Koli’ are included in the Schedule of Tribes under Presidential Order. However, during pre-constitutional era, persons belonging to Scheduled Tribes were reluctant to enter prefix of sub-caste like ‘Tokre’ or ‘Dhor’. Instead, they entered their caste as “Koli” which is a larger group, having better social status. He would, therefore, urge that entry as “Koli” in respect of blood relations of the petitioner cannot be termed as adverse or contra entry, while appreciating the caste status of the petitioner. He, therefore, submits that the Committee wrongly invalidated the tribe claim of the petitioner giving reason of contra entries in respect of blood relations. Mr. Thorat would submit that procuring pre-constitutional evidence in respect of tribes is difficult on account of social conditions

prevalent during pre-constitutional era.

4. Mr. N.S. Tekale, learned AGP appearing for the respondents would submit that school admission entries in respect of many blood relations of the petitioner have noted to be “Koli” or “Hindu Koli” even up to recent past. None of the blood relations of the petitioner is granted caste validity. He would point out that entry of 1938 in respect of Mahipat Suka Koli i.e. cousin great grandfather of the petitioner depicts caste as “Koli”. School admission entry in respect of grandfather of the petitioner recorded in the year 1959 depicts his caste as “Hindu Koli”. Same is the case in respect of cousin grandfather of the petitioner. He would point out that first time in the year 1994, the entry of caste in respect of uncle of the petitioner, namely, Dnyaneshwar Ganpat Shirsath has been recorded as “Tokre Koli” and all evidences prior to 1994, depicts the entry of caste as “Hindu Koli” in respect of blood relations of the petitioner. He would point out that the Committee, on consideration of the school entry register of 1944 in respect of Sudam Goma Koli, noted that the original entry “Koli” has been subsequently corrected to “Koli Tokre”. The difference in ink is certified by the Head Master. He would, therefore, submit that the Committee has rightly invalidated caste claim of the petitioner.

5. We have considered the submissions advanced on behalf of the petitioner as well as respondent State. We have perused the original file pertaining to the petitioner’s caste claim. The thrust of the contention on behalf of the petitioner is that, he should have been granted validity based on the pre-constitutional evidence in the nature of school admission entry of Sudam Goma Koli dated 10.8.1944, wherein,

the caste is recorded as “Koli Tokre”. We have perused the original record. The Head Master of the School, while supplying the information regarding aforesaid entry has specifically remarked that there is addition of word “Tokre” after “Koli” in the school register. Similar opinion is expressed by the Vigilance Officer in his report. During the course of hearing, a photo copy of the school admission register regarding Sudam Goma Koli is brought to our notice. Although, some deflection can be noted in the first entry, by naked eyes, we could not draw a definite conclusion as regards the manipulation. However, we do not find any reason to discard the remark of the Head Master of the School, who is the custodian of said register and gave remark on perusal of the original register. The Committee has also relied upon the remark of the Head Master and also recorded its own observations regarding addition of the word “Tokre” in the school register.

6. In that view of the matter, we proceed to consider further material available in the original file. Pertinently, we could note that the real brother of Sudam Goma Koli i.e. Kashinath Goma Koli was admitted in school on 1.12.1938. However, in admission register his caste entry appears as “Koli”. Another cousin grandfather – Mahipat Suma Koli was admitted in school in the year 1938, which records his caste as “Koli”. Many other entries from 1945 onwards, in school record of the petitioner’s blood relations including the real aunt recorded in the year 1981, refers caste as “Hindu Koli”. Had any of blood relations of the petitioner belongs to “Tokre Koli or Koli Tokre Scheduled Tribe”, at least some entries in pre-constitutional era would have been recorded caste as “Tokre Koli”. Except bare entry in the name of Sudam Goma Koli in the year 1944, no other entry is relied upon by the petitioner to support his

claim.

7. We are not oblivious of the difficulties in procuring the pre-constitutional record in respect of tribes for the reason that there are very few families, where, school admissions or entry in revenue record was made. However, in the case of the petitioner, right from 1938, there are school admissions specifying caste as “Koli Hindu Maratha” or “Hindu Koli”. In Maharashtra ‘Koli’ is recognized as “Other Backward Class”. Therefore, taking overall review of the matter, it is difficult to believe that the petitioner belongs to “Tokre Koli Scheduled Tribe”. The Committee appears to have taken probable view of the matter. After considering the entire material pressed into service on behalf of the petitioner, alongwith fact that the petitioner could not find favour in the affinity test, we do not find fault in order passed by committee.

8. For aforementioned reasons, we do not find any case to interfere in the decision of the Committee in exercise of our jurisdiction under Article 226 of the Constitution of India. Resultantly, the petition fails and stands dismissed.

Rule is discharged. No costs.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-