



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16801 OF 2024

Rajaram Raghunath Koli
Age-49 years, Occ :- Service
Residing at post Kumthe (Nagche),
Tal. Khatav, Dist. Satara

...Petitioner

Versus

1. The State Of Maharashtra
Thr. Its Secretary,
Tribal Development Department,
(Social Justice Department),
Mantralaya, Mumbai.
2. Caste Scrutiny and Verification
Committee Pune, having office at :
5th Floor, C Wing, Kapil Tower,
Near RTO office, Pune.
3. Sub Divisional Officer, Maan Khatav,
Division Dahiwadi, District Satara.

...Respondents

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Adv. Dr. Uday Warunjikar a/w Siddhesh Pilankar i/b Sumit Kate for the
Petitioner.

Adv.Pooja Joshi Deshpande, AGP for Respondent Nos. 1 to 3.

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CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.

DATE : 28th NOVEMBER, 2024

ORAL JUDGMENT (Per Ravindra V. Ghuge, J.) :-

1. **Rule.** Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner has put forth prayer clause (a), as under :-

“(a) This Hon’ble Court be pleased to call for record and proceeding of the order dated 12/02/2024 passed by the Respondent No. 2 and order dated 31st May, 2022 passed by the Respondent No. 3 in the case no. ASTHA/SETU/KAVI / 501/ 2022 and after satisfying about the legality, validity and proprieties of the same, be pleased to quash and set aside the same and further direct the respondents herein to issue caste certificate of “Malhar Koli” of Schedule Tribe in favour of the present petitioner herein by exercising power under Article 226 of the Constitution of India, 1950.”

3. We have considered the vehement submissions of the learned Advocate for the Petitioner and the learned AGP and have gone through the petition paper book, as well as The Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003, with their assistance.

4. The dates and sequence of events in this matter are relevant and the same are as under :-

(a) The Petitioner claims that his school leaving certificate

dated 25th July, 1997 indicates his status as Hindu Koli.

- (b) A Vigilance Cell and Police Authority conducted an inquiry and submitted a report dated 15th December, 1997 which mentions the traditional occupation of the Petitioner's family as being 'filling water and separation of lime.'
- (c) Since the Petitioner had applied for a Validity Certificate of his Koli Mahadev Tribe Certificate, the second Respondent Committee concluded that the Petitioner does not belong to Koli Mahadev Scheduled Tribe.
- (d) The Petitioner's employer purportedly asked for a Certificate from the Special Backward Class. Hence, the Petitioner applied for a Caste Certificate of Koli (SBC) on 14th December, 2009 and received the Tribe Certificate on 17th December, 2009.
- (e) The Petitioner being in employment, applied to the Competent Committee for Tribe Validity Certificate under the Special Backward Class category. By an order of the Committee, the claim of the Petitioner was validated and he was given a Caste Validity Certificate of belonging to Koli under the Special Backward Class category, on 29th March, 2011.
- (f) The Petitioner claims to have done a research on his ancestors and gathered an impression that his actual social status is Panbhare Koli which is a sub caste of Koli Malhar. Hence, the Petitioner moved an Application on 15th March, 2022 for getting the Caste Certificate of Panbhare Koli.
- (g) The SDO rejected the claim of the Petitioner vide order dated 31st May, 2022 and did not issue the Malhar Koli Certificate.

- (h) The Petitioner preferred an Appeal on 22nd June, 2022 before the Committee.
- (i) By an order dated 12th February, 2022, Respondent No. 2 confirmed the order passed by Respondent No. 3.

5. The learned Advocate for the Petitioner has drawn our attention to Rule 3(3)(b), Rule 4(4, 6 and 9) of The Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (hereinafter referred to as “the 2003 Rules”).

6. He harps on two aspects of the impugned orders. Firstly, that the SDO and the Committee could not have rejected his request for issuance of a Malhar Koli Certificate. He fairly states that nobody in the family from the paternal side has such a certificate. Secondly, that, notwithstanding this aspect, if the Competent Authority i.e. the Committee, was not satisfied with the claim of the Petitioner, the Authority should have recorded reasons, expressing it's dissatisfaction and should have ordered a further inquiry. In such an inquiry, the Competent Authority should have given 15 days notice period to the Petitioner in order to participate in such inquiry.

7. For the sake of clarity, we are reproducing Rules 3(3)(b) and

4(4, 6 and 9) here under :-

3(3)(b) documentary evidence in regard to the Scheduled Tribe and ordinary place of residence prior to the date of notification of such Scheduled Tribe;

4(4) The Competent Authority shall maintain a register of such application in Form B.

(6) The Competent Authority shall verify the documents with the original documents and if satisfied about the correctness of the information, documents and evidence furnished by the applicant he shall issue the Scheduled Tribe Certificate in Form C within fifteen days from the date of receipt of the duly completed application.

(9) If the Competent Authority is not satisfied with the claim of the applicant on the scrutiny of evidence produced, the Authority may, after recording reasons therefor order a further enquiry as he deems fit. For conducting the inquiry, the Competent Authority shall issue a notice, giving a clear fifteen days period from the date of issue of the notice, to the applicant or any other person concerned for attending the enquiry proceedings.”

8. The learned AGP has vehemently opposed this Petition by contending that the Petitioner has already received a Koli Caste Validity Certificate on 29th March, 2011 which is covered under the Special Backward Class category. The Panbhare Koli comes under the Special Backward Class category. She further submits that once the Petitioner had received a Validity Certificate, he is precluded from claiming any Caste Certificate since his claim of belonging to the Koli (SBC) category has been validated.

9. In rebuttal, the learned Advocate for the Petitioner submits that there can be no embargo on the Petitioner from seeking a new Panbhare Koli Caste Certificate, though he has received a Validity Certificate. The Petitioner has done a research and has realized that he would not be belonging to the Koli Caste for which he has received a Validity Certificate.

10. We posed a query to the learned Advocate as to whether the Petitioner had surrendered the Validity Certificate of the Koli (SBC) category and then ventured into seeking the Panbhare Koli (SBC) Certificate. The learned Advocate, on instructions, submits that the Petitioner is not inclined to do this because, if he surrenders the Validity Certificate and later on his claim of belonging to the Panbhare Koli category is rejected or invalidated, he would be left high and dry.

11. In the light of the above, we are of the view that, notwithstanding a particular procedure that is required to be followed while entertaining a claim of a candidate for issuance of a Certificate, the nucleus in this matter would be as to, (a) whether the Petitioner could be permitted to make such an application and (b) whether it would be a

wasteful exercise for directing Respondent No. 2 to conduct an inquiry as prescribed under the Rules reproduced above and assess whether the Petitioner could be granted a Panbhare Koli (SBC) Certificate.

12. It is well settled that a person derives his/her caste/tribe/social status from his father/paternal side. It is also settled that a person will have to make a genuine claim for a particular certificate and has a right to demand a Validity Certificate in accordance with the provisions of The Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (hereinafter referred to as “the 2000 Act”).

13. In catena of judgments, the sanctity and significance of the prescribed procedure under the 2000 Act, has been amplified and does not call for any further debate. We are referring to the recent judgment delivered by the Hon’ble Supreme Court in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and others, Civil Appeal No.2502/2022, [AIR 2023 SC 1657]***, which deals with the prescribed procedure that has to be followed by the Committee, the

importance and significance of the Vigilance Cell inquiry and establishing the relationship by the claimant with those bearing a Caste or a Tribe Validity Certificate.

14. The Hon'ble Supreme Court has also concluded that if there is any validity certificate issued to a paternal blood relative, the onus and burden of proving the relationship would be on the claimant. Once, such burden is discharged, it would be for the Vigilance Cell to establish that the relationship is not only disputed, but is also disputable and disproved. If a Vigilance Cell inquiry is conducted in the case of a Validity Certificate holder, no further Vigilance Cell inquiry would be mandated in cases of close paternal blood relatives, unless for specific reasons to be spelt out.

15. In the above backdrop, we are of the view that once, the Petitioner has declared that he belongs to the Koli (SBC) category, he proceeded to seek a Certificate from the Competent Authority and after following a procedure, as is prescribed, the Petitioner received such a Certificate, that he is precluded from seeking one more Certificate. He had also put the said Certificate to the stringent test and procedure under the 2000 Act and received a Validity Certificate from the Competent

Committee, on 29th March, 2011. In our view, this is a statutory certificate which is issued by an Authority duly vested with jurisdiction under the 2000 Act. Such a Validity Certificate, not only has a legal existence, rather it has the force of law in declaring the person as belonging to a particular category which is a part of the social status. On receiving such Certificate, the beneficiary can avail of the benefits under the scheme of reservation.

16. In these circumstances, we are unable to accept the submission that the Petitioner can protect his Validity Certificate and at the same time, make an attempt to shift his caste from 'Koli' to 'Panbhare Koli', on the basis of a claim of purportedly having made a research.

17. In the backdrop of our above conclusion, the next question to be dealt with, as raised by the learned Advocate for the Petitioner, would be, whether it would be wasteful exercise to remit the matter to Respondent No. 2 on the ground that the procedure enunciated under Rule 4(9) of the 2003 Rules, was not followed.

18. Normally, when a particular procedure that is required to be followed, is ignored, the Courts remit the matter to the same authority, in

order to ensure that a particular thing which has to be done in a particular way, is done in the same way and not in any other way. However, we have drawn a conclusion that, as long as the Petitioner maintains his rights flowing from a Validity Certificate, he is estopped from seeking one more Certificate by putting forth a claim for a different certificate. With this conclusion, no purpose or object would be served in remitting the matter to Respondent No. 2, since we have concluded that the Petitioner will not be entitled to make a claim for a different certificate, while preserving the one which has received a Validity Certificate. We make it clear that, the aspect of whether a candidate can surrender a Validity Certificate and then pray for a different Caste or Tribe Certificate and whether it would amount to a fraud, is left open to be decided in an appropriate case.

19. In view of the above, **this Writ Petition is dismissed**. Rule is discharged.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)