

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 11928 OF 2019

Anil Bhagwan Kharde. ... Petitioner.
V/s.
State of Maharashtra and others. ... Respondents.

Mr.R.K.Mendadkar for the Petitioner (through VC).
Ms.Rupali Shinde, AGP for Respondent Nos.1 to 4.
Mr.Neel Helekar with A.A.Garge for Respondent No.5.

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**CORAM : NITIN JAMDAR AND
DR.NEELA GOKHALE, JJ.**

DATE : 5 April 2024.

P.C.:

The Petitioner is working with Respondent No.5- Postal Services (A & V) Foreign Post Office. The Petitioner was issued the caste certificate by the Deputy Collector, Mumbai Suburban District on 10 December 1981. In this caste certificate it was stated that the Petitioner belongs to Mahadev Koli Scheduled Tribe. On 14 January 2010, Respondent No.5- the employer of the Petitioner referred the caste certificate of the Petitioner for verification to the Scrutiny Committee. Respondent No.5 issued various

communications to the Petitioner to submit necessary documents so that verification could be completed in time. Ultimately chargesheet was issued to the Petitioner on 16 August 2019 by Respondent No.5 proposing disciplinary action for failure to submit the caste validity certificate.

2. In the meanwhile, the Scrutiny Committee by order dated 13 August 2015 examined the caste certificate sent for verification and observed that the caste certificate refers to the caste of the Petitioner as Mahadev Koli when in the Presidential Order the entry is Koli Mahadev and it is not permissible to change the nomenclature. Accordingly the caste certificate as Mahadev Koli was confiscated by the Scrutiny Committee giving liberty to the Petitioner to apply for a fresh caste certificate.

3. The learned counsel for the Petitioner submitted that the Petitioner has applied for the caste certificate 23 July 2018 and till date the caste certificate is not issued. The learned counsel for the Petitioner relied upon the decision of the Division Bench of this Court (Aurangabad Bench) in the case of *Prakash s/o Subhash Bhope v. Deputy Collector (General), Latur*¹; wherein this issue has been considered and the Division Bench has issued certain guidelines regarding issuance of caste/ tribe certificate in the prescribed proforma as belonging to Koli Mahadev Scheduled Tribe.

¹ Writ Petition No.4536/2014 and others decided on 14 August 2014

4. As of today the Petitioner's caste claim is not verified on merits by the Scrutiny Committee. The matter is still pending on the issuance of caste certificate in correct nomenclature. We also take note of the grievance of the Respondent- Employer that without the validity certificate the Petitioner has continued in service on the post reserved for the scheduled tribes. In these circumstances, we deem it proper to set a timetable for further course of action.

5. It is directed that Respondent No.4 will take necessary decision as regards the issuance of caste certificate to the Petitioner within a period of six weeks. If the caste certificate is not issued and the Petitioner intends to file an appeal against the same before the Scrutiny Committee, the Petitioner will do so within a period of two weeks after the said decision. If an appeal is filed against the refusal to issue caste certificate, the Scrutiny Committee will decide the same within a period of six weeks thereafter.

6. It is directed that if a caste certificate in proper format is issued to the Petitioner then the Respondent- employer will refer the said certificate for verification to the Scrutiny Committee. The Petitioner will co-operate in submitting all necessary documents to the employer as well as the Scrutiny Committee in time stipulated by the Respondent- employer. If the Petitioner does not co-operate, it will be open to the Respondent- employer to take necessary disciplinary action against the Petitioner.

7. After the caste certificate is referred to the Scrutiny Committee for verification the Scrutiny Committee will decide the claim within a period of four months after the submission of the caste certificate and the documents.

8. In light of this order, the Respondent- Employer will not take any coercive action against the Petitioner on the ground of non-submission of the validity certificate, till the decision is rendered by the Scrutiny Committee within the time as stipulated.

9. Writ petition is disposed of in the above terms.

(NEELA GOKHALE, J.)

(NITIN JAMDAR, J.)