



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4307/2023

Sau. Vijaya Prakash Rane

...Versus...

The Collector, Akola District – Akola and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. Ram Karode, Advocate for petitioner
Mrs. S.S. Jachak, Addl. G.P for respondent nos.1 to 4
Mr. M.V. Bute, Advocate for respondent no.6

**CORAM : AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ.**

DATE : 28/02/2024

1. The petition seeks a direction for removal of the respondent no.6 from the post of Sarpanch of the Grampanchayat of village Chohotta Bazar, Tahsil Akot, District Akola on the ground that the respondent no.6 has practiced a fraud upon the Election Officer by submitting a tribe certificate claiming himself to be belonging to Mahadev Koli Tribe for the purpose of getting elected to the post of Sarpanch, which election was held on 11/11/2022 (pg.21-A).

2. Mr. Karode, learned counsel for the petitioner, invites our attention to the certificate dated 20/02/1995, filed by the respondent no.6 in support of his claim of belonging to

the Mahadev Koli Scheduled Tribe (pg.16), on the basis of which, he is elected to the post of Sarpanch. It is contended that this claim of the respondent no.6 of belonging to the Mahadev Koli Scheduled Tribe has been rejected by the Caste Scrutiny Committee by its communication dated 09/01/2024 on account of non-supply of material documents. That apart, he further invites our attention to the validity certificate issued in favour of the respondent no.6 himself dated 05/05/2010 (pg.28), whereby the caste certificate dated 22/11/1999 issued by the Sub Divisional Officer, Akot in favour of the respondent no.6 of his belonging to the SBC Koli; the certificate of validity issued by the Caste Scrutiny Committee in respect of Chetan Subhash Mukunde dated 14/09/2015 (pg.29), who is admittedly the son of the respondent no.6 which holds that the said Chetan Mukunde belongs to Koli Special Backward Class; the certificate of validity issued by the Committee in favour of one Abhishek Subhash Mukunde dated 15/02/2022 (pg.30) to the same effect, it not being denied that Abhishek Subhash Mukunde is the son of the respondent no.6. He, therefore, submits that the election of the respondent no.6, to the post of Sarpanch of Village Panchayat Chohotta Bazar, is clearly vitiated by fraud being practiced by the respondent no.6.

3. Mr. Bute, learned counsel for the respondent no.6 does not dispute the fact that Chetan and Abhishek in whose

favour the validities, referred to above, have been granted by the Caste Scrutiny Committee are the sons of the respondent no.6. He also does not dispute the validity granted in favour of the respondent no.6 on 05/05/2010 (pg.28) which shows that the respondent no.6 belongs to the Caste Koli, which is declared as Special Backward Class. He, however, contends that the claim of the respondent no.6 belonging to the Scheduled Tribe Mahadev Koli is still under consideration by the Caste Scrutiny Committee.

4. What is material to note is that by the communication dated 09/01/2024, which is taken on record and marked as "X" for the purpose of identification, the application filed by the respondent no.6 claiming validity in respect of his plea that he belongs to the Scheduled Tribe Mahadev Koli has been turned down. That apart, the Caste Scrutiny Committee has already issued the validity certificates dated 05/05/2010 in favour of the respondent no.6; 14/09/2015 in favour of Chetan Subhash Mukunde and 15/02/2022 in favour of Abhishek Subhash Mukunde, both sons of the respondent no.6, which hold them to be belonging to be of Koli Special Backward Class.

5. This being the position, the very act on part of respondent no.6 in using a caste certificate issued by the Executive Magistrate, Akola, dt.20/2/1995, wherein it is stated

that the respondent no.6 belongs to Koli Mahadev Scheduled Tribe is clearly a fraudulent act on part of the respondent no.6, which cannot be countenanced by this Court. Though a different remedy may be available to the petitioner, to dislodge the respondent no.6, however, in the teeth of the above admitted position, this Court cannot shut its eye to the position available on record. We, therefore, do not have any other option than to allow the petition by declaring that the election of the respondent no.6 to the post of Sarpanch of Village Panchayat Chohotta Bazar, Tahsil Akot Distt. Akola stands vitiated by fraud and he is no longer entitled to occupy the said post. The respondent no.1 shall take appropriate steps forthwith in this regard.

6. The writ petition is accordingly allowed. No order as to costs.

7. Considering the peculiar fact position, as indicated above, the request for stay of the present order is declined.

(SMT. M.S. JAWALKAR, J.)

(AVINASH G. GHAROTE, J.)