



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

**WRIT PETITION NO.3392 OF 2015
WITH
CIVIL APPLICATION NO.2872 OF 2016 &
CIVIL APPLICATION NO.655 OF 2025**

Ravindra Ukhadu Savale,
Age: 51 years, Occu: Service,
as laboratory Technician,
R/o. Plot No.18, Samradhi
Apartment, Anand Nagar,
Deopur, Dhule, Tq. & Dist. Dhule.

....PETITIONER

VERSUS

1. Dean,
Shri. Bhausahab Hire,
Government Medical College,
Chakkarbardi, Dhule,
Tq. & Dist. Dhule.
2. Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar
Region, Nandurbar
Through its Member Secretary.

....RESPONDENTS

...
Mr. Mahesh S. Deshmukh, Advocate for Petitioner
Mr. Amar V. Lavte, A.G.P for Respondent Nos. 1 & 2
...

**CORAM : MANGESH S. PATIL &
Y. G. KHOBRAGADE, JJ.**

DATE : 11.03.2025

JUDGMENT (Per:- Y. G. KHOBRAGADE, J.)

1. Rule. Rule made returnable forthwith. Heard learned Advocates for the parties, by consent.

2. By the present petition under Articles 226 and 227 of the Constitution of India, the petitioner challenges order dated 04.03.2015 and corrigendum order dated 26.03.2015, passed by Respondent No. 2, the Scrutiny Committee, thereby invalidated petitioner's caste claim '*Tokre Koli*', schedule Tribe.

3. According to the petitioner, he belongs to '*Tokre Koli*' Scheduled Tribe. On 04.06.1977, he received '*Tokre Koli*' Scheduled Tribe certificate from the Executive Magistrate, Shirpur, Dist. Dhule, after following the due procedure. On 06.02.1996, he was appointed to the post of 'Laboratory Technician' against the reserved seat for the Scheduled Tribe category. His caste claim was referred to the Scrutiny Committee, Nashik. However, on 28.06.2013, Respondent No. 2, the Scrutiny Committee, invalidated his tribe claim. Consequently, he filed Writ Petition No. 7160 of 2013 before this Court. On 17.10.2013, this Court passed an order and set aside the order dated 28.06.2013 passed by the SDO and permitted the

petitioner to submit an application before the SDO for the issuance of fresh tribe certificate. The SDO was also directed to issue a fresh tribe certificate in favour of the petitioner. Accordingly, on 20.12.2013, the SDO, Shirpur, issued '*Tokre Koli*' Scheduled Tribe certificate in favour of the petitioner. The petitioner's proposal for caste scrutiny was submitted to Respondent No. 2 along with the birth register pertaining to his second-degree paternal aunt, namely Sayza, daughter of Dhaku (real cousin of the petitioner's father), whose date of birth is recorded as 27.05.1936, and in the caste column, the entry is recorded as '*Koli Tokre.*' The petitioner also produced extract of primary school register of his other parental aunt namely Tulja D/o Dhaku Savale, whose date of birth is 30.01.1939. The extract of the birth register pertaining to Shri Dhanlal Ratan Savale, the second-degree parental cousin of the petitioner shows that his caste is recorded as '*Tokre Koli*'. The extract of birth register pertaining to Navsi Mahipat Chaitram (cousin sister), shows that her date of birth is recorded as 26.05.1936 and in caste column, entry is recorded as '*Tokre Koli*'. Thus, all four documents pertaining to the petitioner's parental aunt and parental cousin show their caste '*Tokre Koli*,' Which are of origin prior to the first Presidential Order of 1950

4. The learned counsel for the petitioner placed reliance on case of ***Kumari Madhuri Patil Vs. Additional Tribal Commissioner and Others, AIR 1995 SC 94***, wherein the Hon'ble Apex Court observed as under;

12. *"The Caste Scrutiny Committee is a quasi-judicial body. It has been set up for a specific purpose. It serves a social and constitutional purpose. It is constituted to prevent fraud on constitution. It may not be bound by the provisions of Indian Evidence Act, but it would not be correct for the superior courts to issue directions as to how it should appreciate evidence. Evidence before a quasi-judicial body can not be restricted to admission of documentary evidence only. It may of necessity have to take oral evidence."*

17. *"We with respect do not agree with the conclusion of the High Court that no inquiry was permissible at all, once it is found that the person concerned in whose favour a certificate had been granted to be notified as Scheduled Tribe."*

23. *"The makers of the Constitution laid emphasis on equality among citizens. Constitution of India provides for protective discrimination and reservation so as to enable the disadvantaged group to come on the same platform as that of the forward community. If and when a person takes undue advantage of the said beneficent provisions of the constitution by obtaining the benefits of reservation and other benefits provided under the Presidential order, all though is not entitled thereto, he not only plays fraud on the society but in effect and substance plays a fraud on the constitution. When, therefore, a certificate is granted to a person who is not otherwise entitled thereto, it is entirely incorrect to content that the state shall be helpless spectator in the matter."*

24. *"We, with respect, failed to appreciate the approach of the High Court as it proceeded on the premise that once the surname of Respondent tallied with the name of the tribe, which finds mention in one or the other entries of the schedule appended to the 1976 Order, the same must be treated to be sacrosanct and no enquiry in relation to the correctness of the said certificate can be gone into by any Committee. The observations and directions of the High Court, in our considered opinion, were not only contrary to the judgments of the Court but also fall short of the ground realities."*

5. He further relied on case of ***Anand vs Committee for Scrutiny and Verification of Tribe Claims and Others (2012) 1 SCC 113***, wherein, the Hon'ble Apex Court observed in paragraph No.22 as under,

"22. It is manifest from the afore extracted paragraph that the genuineness of a caste claim has to be considered not only on a thorough examination of the documents submitted in support of the claim but also on the affinity test, which would include the anthropological and ethnological traits, etc., of the applicant. However, it is neither feasible nor desirable to lay down an absolute rule, which could be applied mechanically to examine a caste claim. Nevertheless, we feel that the following broad parameters could be kept in view while dealing with a caste claim:

(i) While dealing with documentary evidence, greater reliance may be placed on pre-independence documents because they furnish a higher degree of probative value to the declaration of status of a caste as compared to post-independence documents. In case the applicant is the first generation ever to attend School, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim. In fact, the mere fact that he is the first generation ever to attend School, some benefit of doubt in favour of the applicant may be given. Needless to add that in the event of doubt on the credibility of a document, its veracity has to be tested on the basis of oral evidence, for which an opportunity has to be afforded to the applicant."

6. As per the ratio laid down in both the cases, the petitioner has produced extracts of the birth registers of his parental aunt and second-degree cousins, which have the highest probative value as pre-constitutional documents to determine the social status claim of the petitioner. The petitioner has also produced the copy of judgment

rendered by the Additional Commissioner, Nashik, the then Appellate Authority, on 28.01.1992, validating tribe claim of Shri Mahendra Savale, as '*Tokre Koli*', Scheduled Tribe. Shri Mahendra Savale is a real parental cousin of the petitioner. However, Respondent No. 2 passed the impugned order and invalidated caste claim of the petitioner by overlooking said documents, which is illegal, bad in law, hence, the petitioner prays to quash and set aside the impugned order.

7. Per contra, the learned A.G.P. canvassed that the petitioner produced certain documents pertaining to his school records of his blood relatives, wherein caste entries were recorded as Hindu Backward Tokre Koli, Hindu Mang Tokre Koli, and Hindu Koli, none of the documents show the social status of the petitioner as '*Tokre Koli*' Scheduled Tribe. Furthermore, the petitioner failed to prove his affinity test. Therefore, considering the documentary evidence produced on record, respondent No. 2, the Scrutiny Committee has been rightly invalidated caste claim of the petitioner, hence, prayed for dismissal of the petition.

8. Having regard to the rival submissions canvassed on behalf of both sides, we have gone through the record. The petitioner has produced a school leaving certificate pertaining to Tulja D/o Dhaku Savale, born on 30.01.1939, with entry in her caste column described as '*Tokre Koli*'. The birth register pertaining to petitioner's second-degree parental aunt namely Sayza D/o Dhaku, who born on 27.05.1936 and in caste column of said birth register caste '*Tokre Koli*' is recorded. The petitioner produced extract of birth register pertaining to his cousin sister Smt. Navsi Mahipat Chaitram, who born on 26.05.1936 and in caste column of said birth register caste '*Tokre Koli*' is recorded. The entry made in caste column in birth register of Dhanlal Ratan Savale, the second-degree petitioner's parental cousin shows '*Tokre Koli*'. All these documents are pre-independence and predating to the Presidential Order of 1950. As per law laid down in cases of ***Madhuri Patil and Anand*** cited (*supra*) pre-constitutional documents hold the highest probative value in determining the social status of the petitioner. Not only this, but on 28.01.1992, the Additional Commissioner, Nashik, the then Appellate Authority passed an order in caste scrutiny appeal No. 38 of 1991 (***Mahendra Digambar savale Vs. Director Scrutiny committee***), and

considered birth extracts of Kishor, Arvind, and Mangala (the brothers and sister of Mahendra) as well as various documents cited therein and validated the caste claim of Shri Mahendra Digambar savale, who is distant cousin of the petitioner.

9. In the case of *Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee, 2011(2) Bom. C.R.824*, it is held that, when during the course of enquiry the candidate submits a caste validity certificate granted earlier certifying that a blood relation of the candidate belongs to the same caste as that is being claimed by the applicant, the committee may grant such certificate without calling for vigilance cell report. However, if the committee finds that the earlier caste certificate is tainted by fraud or is granted without jurisdiction, the committee may refuse to follow and may refuse to grant certificate to the applicant before it. The order of appellate authority in case of Mahendra Savale is not yet reversed or modified.

10. In case of *Nilesh S/o. Gulab Sonawane and another Vs. The State of Maharashtra, in wp no.9654 of 2019*, this court (Coram: Mangesh S. Patil and Shailesh Brahme, JJ.) concluded that, Koli Dhor, Tokre Koli, Kolcha, Kolgha are covered by entry No.28 of the

Scheduled Tribe Order, 1950. As such, all persons belonging to any of these four categories would belong to the scheduled tribe category.

11. Needless to say that the appellate authority in appeal No. 38 of 1991 (*Mahendra Digambar Savale vs. Director, Scrutiny Committee*) granted a validity certificate to Shri Mahendra Digambar Savale, the paternal cousin of the petitioner, the said order has not yet been set aside by the competent court, hence, said order is still in existence. Therefore, the ratios laid down in cases of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti*, AIR 2023 S. C. 1657, *Anand*, 2012) 1 SCC 113, *Apoorva Vinay Nichale*, 2011(2) Bom. C.R.824, would be applicable to the present case. However, Respondent No. 2, the Caste Scrutiny Committee, failed to consider all these exigencies and passed the impugned order, which is illegal, bad in law and needs to be quashed and set aside.

12. In view of the above discussion, we are inclined to grant this petition and proceed to pass the following order:

:: ORDER ::

- (i) The impugned orders dated 04.03.2015 and 26.03.2015 passed by respondent No.2, the caste scrutiny committee are hereby quashed and set aside.

- (ii) Respondent No.2, the caste scrutiny committee, shall issue tribe validity certificate to the petitioner as belonging to '*Tokre Koli*', scheduled tribe within a period of six weeks from the receipt of certified copy of the judgment.
- (iii) After furnishing the caste validity certificate by the petitioner, respondent No.1 shall further proceed to submit the pensionary proposal of the petitioner, if he is entitled.
- (iv) Rule is made absolute in terms of prayer clauses (A) and (DD).
- (v) Pending civil application Nos.2872 of 2016 and 655 of 2025 are disposed off.

[Y. G. KHOBRAGADE J.]

[MANGESH S. PATIL, J.]

HRJadhav