

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

1018 WRIT PETITION NO.2905 OF 2004

Satyanarayan Durgaiiah Medaboina

VERSUS

The State of Maharashtra and Others

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Shri. S. M. Kulkarni h/f. Shri. P. G. Rodge,
Advocate for the Petitioner

Shri. P. K. Lakhotiya, AGP for Respondent Nos.1 and 2

Shri. N. T. Tribhuwan h/f. Shri. K. B. Deshpande,
Advocate for Respondent Nos.3 and 4

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WITH

CIVIL APPLICATION NO. 8692 OF 2023
IN WP/2905/2004

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CORAM : R. G. AVACHAT AND
NEERAJ P. DHOTE, JJ.

Dated : JUNE 18, 2025

PER COURT :-

. The petitioner was appointed with Respondent No.3-Bank on the post of Clerk, which was reserved for Scheduled Tribe candidate. The Petitioner claimed to be belonging to 'Koli Mahadeo' Scheduled Tribe. Respondent No.3 – Bank referred the Petitioner's claim towards the said Tribe, to the Respondent No.2 – Committee for validation. The Respondent No.2 – Committee considered the documents submitted by the Petitioner and directed the vigilance enquiry. On considering the documents on record and the Vigilance Cell Report, Respondent No.2 – Committee invalidated the Petitioner's claim by the impugned Order dated 04.04.2003. Being aggrieved by the same, the Petitioner has

approached this Court in this Writ Petition.

2. It is submitted by learned Advocate for the Petitioner that neither the Vigilance Cell Report nor the Committee in the impugned order has observed that there was any falsification of record or the documents submitted by the Petitioner were fake. He submits that the Tribe Claim of the Petitioner was invalidated only on the ground that the Petitioner failed to place on record the pre-constitutional era documents and the Petitioner failed to prove the affinity towards the said tribe. He further submits that, father of the Petitioner did not attend the school and therefore, no record of his father nor any revenue entries were available in support of his tribe claim. He submits that the School Leaving Certificate dated 10.07.1975 which was submitted before the Respondent No. 2 Committee, was not taken into consideration though the entry of the Petitioner's caste in the said Leaving Certificate was based on the caste entered in the record of C.S.M. Primary School Certificate. He submits that the Petitioner was admitted in the said school of Nanded in 5th Standard on 26.06.1969 and the primary school record was prior to that. He submits that the primary school record might be of the year 1964 and the said record cannot be held to be of recent period. He submits that the issue of affinity has been addressed by the Hon'ble Apex Court of India in the case of *Anand vs. Committee for Scrutiny & Verification of Tribe Claims*, (2012) 1 SCC 113 and has held that, '*the affinity is not the litmus test to prove the tribe or caste*

claim.' He submits that the impugned order of Respondent No.2 – Committee is unsustainable in the eye of law and the same may be set aside. He further submits by virtue of interim relief the Petitioner continued his service with Respondent No.3 - Bank and now, he is retired and therefore, directions may be given to release his pensionary benefits with appropriate interest.

3. The Petition is vehemently opposed by the learned AGP appearing for the State and the Respondent No.2 - Scrutiny committee. He submits that there is no single document except the Caste Certificate of the petitioner to support the tribe claim. He submits that though the Petitioner filed the Affidavit of one person by name Shankar Gangaram Amberao, who is holding the validity for the Koli Mahadeo Tribe, there is nothing to show as to in what way the Petitioner was related to the said validity holder. He submits that Respondent No.2 - Committee has rightly passed the impugned order and the same cannot be faulted. He submits that the School Leaving Certificate of the Petitioner cannot be considered as the old document. He submits that the Petition be dismissed.

4. We have heard both the sides. Perused the papers on record and the file made available by the Respondent No.2 – Scrutiny Committee. The impugned order shows which documents were submitted by the Petitioner in support of the Tribe Claim. The impugned order further

shows that the vigilance cell had conducted the enquiry and submitted its report. Admittedly, there is no observation in the impugned order that the documents submitted by the Petitioner in support of his tribe claim were false or fabricated. The main reason on which the Tribe Claim of the petitioner is invalidated by the Respondent No.2 – Scrutiny Committee is that the documents were of recent years and it cannot be of conclusive proof.

5. The basic documents available with the Petitioner upon which much stress is given by the learned Advocate for the Petitioner is the School Leaving Certificate dated 10.07.1975 issued by the Andhra Samithi Telugu High School, Nanded. The Orig. School Leaving Certificate is in the record of the Respondent No. 2 – Scrutiny Committee. There is no dispute that it bears the name of the Petitioner. The said Certificate bears the date of admission in the said school as 26.06.1969 and against the race and caste column, it is mentioned as Indian (Koli Mahadeo). There is clear note on the said Leaving Certificate that, '*Caste entered on the basis of C.S.M. Primary School Certificate*'. Considering the said date of admission i.e. 26.06.1969, the primary record would be of 1964. It appears from the observation of the impugned order that, the school record of the C.S.M. Primary School was not available and it was destroyed in the floods of 1972. Based on the documents available on record i.e. School Leaving Certificate of the Petitioner, it cannot be said that the said document is of recent period.

The impugned order is of 2003 and the said caste was entered in the year 1969 which was based on earlier school record. Therefore, the said finding of the Respondent No. 2 – Scrutiny Committee that, it is of recent period and has no probative value, would be unsustainable. In our considered view, the Respondent No.2 – Scrutiny Committee has not given due weightage to the said School Leaving Certificate and invalidated the Petitioner's tribe claim. In this view of the matter, we deem it appropriate to remand back the matter to the Respondent No.2 - Scrutiny Committee for fresh reconsideration and decision by considering the documents available on record in its right perspective, by giving due opportunity to the Petitioner to submit the documents, if any. Since the matter is remanded back and the Respondent No.2 – Scrutiny Committee would be reconsidering the Petitioner's tribe claim, we don't think it proper to give directions to the Respondent No.3 - Bank to release the Petitioner's pensionary benefits and also, in view of the decision of the Hon'ble Apex Court of India in the case of *Chairman and Managing Director FCI and Ors V/s. Jagdish Balaram Bahira and Ors, (2017) 8 SCC 670*. Hence, we proceed to pass the following order.

ORDER

- (i) The Writ Petition is partly allowed.
- (ii) The impugned Order dated 04.04.2003 passed by the Respondent No.2 – Scrutiny Committee invaliding the Petitioner's claim towards 'Koli Mahadeo' Scheduled Tribe is quashed and set

aside.

- (iii) The Tribe Claim of the Petitioner is remanded back to the Respondent No.2 – Scrutiny Committee for fresh consideration in accordance with law and in the light of the above referred observations.
- (iv) Respondent No.2 – Committee shall take decision in the matter within a period of (3) months from the date of receipt of this order.
- (v) The Petitioner shall appear before the Respondent No.2 – Scrutiny Committee on 07.07.2025 during office hours.
- (vi) The Petitioner shall provide his necessary details to the Respondent No. 2 – Scrutiny Committee for deciding the claim by Respondent No.2 – Scrutiny Committee, if necessary.
- (vii) The Petition stands disposed off accordingly.
- (viii) Pending Civil Application stands disposed off.

(NEERAJ P. DHOTE, J.)

(R. G. AVACHAT, J.)

GGP