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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10740 OF 2025

Ashok S/O Dattu Saindane
Age- 60 years, Occ. Pensioner,
Presently residing at-Room No.2,
Ground Floor, Matrushila Co-op.
Housing Society, Mohane Road,
Shahad (West), Tq. Kalyan,
Dist. Thane.

... Petitioner

Versus

1. The State of Maharashtra
Tribal Development Department
Mantralaya, Mumbai- 32.
Through its Secretary.

(Copy to be served on the Government
Pleader, High Court of Judicature
at Bombay)

2. The Deputy Secretary,
Women & Child Development
Department, Maharashtra State,
3rd Floor, New Administrative Building,
Mantralaya, Madam Cama Marg,
Hutatma Rajguru Chowk,
Mumbai-400 032.

... Respondents

Mr. Sahil Choudhari h/f Mr. Sushant Jinturkar, Advocates for the
Petitioner.

Ms. Priyanka Chavan, AGP for Respondent-State.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 18th DECEMBER, 2025

ORAL JUDGMENT : (PER : RAVINDRA V. GHUGE, J.)

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

2. On 13th November 2025, we passed the following order :-

“1. We have briefly heard the learned Advocate for the Petitioner and the learned AGP.

2. We have perused the judgments cited, which are placed on record in the Writ Petition paper book. In Shamrao Shrawanji Nikhare (dead) through his legal heirs Mrs. Meena w/o Shamrao Nikhare & Ors. versus Scheduled Tribe Caste Certificate Scrutiny Committee, Nagpur & Anr., at page 80 of the Petition paper book, the matter pertains to a person who died in harness before his validity claim could be decided. Hence, the pensionary benefits were released. In Narendra K. Kumbhare versus The Union of India & Ors., at page 87 of the Petition paper book, the case related to a departmental enquiry after retirement on the ground that the Petitioner had not tendered a validity certificate. In Shankar Shamanna Tangdelu versus The State of Maharashtra & Ors., at page 104 of the Petition paper book, the Petitioner had superannuated and declared that he would not claim the social status and would not press the proposal for validation.

3. *In the above backdrop, when we called upon the learned Advocate for the Petitioner, the response was that the Petitioner would not claim a validity certificate and would give up his claim of belonging to the Tokre Koli-Scheduled Tribe category. When we asked him whether his children would continue with the same social status, his answer, on instructions, was that his children would not give up the said social status. He now submits that he would take clear instructions on this point.*

4. *Let the learned Advocates for the Petitioner and the Respondents address the Court on this point of law on 18th December 2025.*

5. *List this Petition on the Special Pension Matters Board on 18th December 2025.”*

3. The learned Advocate for the Petitioner makes a statement on fresh instructions from the Petitioner that his children have never claimed the benefit of Tokre Koli – Scheduled Tribe Category, insofar as reservation is concerned and they would never seek a validity certificate of Tokre Koli – Scheduled Tribe Category at any time in future. He submits that the statement made earlier as is recorded in paragraph No.3 of the above reproduced order, is withdrawn by the Petitioner.

4. This Court [(Coram : B. R. Gavai (as His Lordship then was) and S. V. Gangapurwala (as His Lordship then was), JJ.] has delivered a Judgment on 12.08.2010 in Writ Petition No.3718 of 1994 at the Aurangabad Bench in the matter of ***Prakash S/o Fulchand Barwal through L.Rs. Vs. State of Maharashtra and Ors.*** It would be apposite to reproduce paragraph Nos. 2 to 6 of the said Judgment hereunder :-

“2] The original petitioner was appointed as Peon by the respondent no.4 by the order dated 11.7.1988. The petitioner’s appointment was against a post reserved for scheduled tribe. As such the claim of the petitioner was referred to the Scheduled tribe caste verification committee. The said committee invalidated the claim of the petitioner vide order dated 30.9.1989. On the ground of invalidation. the petitioner’s services came to be terminated vide order dated 10.12.1989. The appeal preferred by the petitioner against the order of the caste verification committee was dismissed on 27.10.1993. Being aggrieved thereby, the present petition was filed.

3] While granting Rule, this Court had granted interim relief in terms of prayer clause (B). As such in pursuance to the interim order, the petitioner was to work as a Peon with the respondent no.4. Subsequently, Civil Application No. 5571/1994 was filed by the respondent no.4 for vacating the interim relief. The same came to be rejected.

4] *During pendency of the writ petition, the original petitioner has died and his legal heirs are brought on record. Since the original petitioner has already died, the question regarding his claim of belonging to scheduled tribe does not arise. The legal heirs of the original petitioner have restricted the claim in the present petition only for grant of family pension.*

5] *The petitioner was originally appointed on 18.7.1988. By virtue of interim order passed in the year 1994, the petitioner was directed to be reinstated. The original petitioner has died on 5.12.2003. Considering the date of appointment of the original petitioner to be 11/18.7.1988, the original petitioner has rendered the service of more than 15 years. As such the petitioner's widow would be entitled to the family pension. We accordingly extend the benefit of family pension to the widow of the original petitioner i.e. present petitioner no.1 - Smt. Shobhabai w/o Prakash Barwal.*

6] *We, therefore, dispose of the writ petition by directing the respondents to give the benefits of family pension to the widow of the original petitioner from the date of his death i.e. 5.12.2003. The said benefit be extended to the widow of the petitioner namely Smt. Shobhabai w/o Prakash Barwal within a period of six months from today along with the arrears. No order as to costs."*

5. The Petitioner relies upon the Judgment delivered by the Hon'ble Supreme Court in ***R. Sundaram Vs. Tamil Nadu State Level Scrutiny Committee and Ors.*** 2023 SCC Online SC 287, more

particularly, on the facts set out in paragraph Nos. 13 and 14 and the conclusions drawn in paragraph Nos. 21 to 25, which read as under :-

13. At the very beginning, we would like to state that this Court is appalled at the treatment given to the Appellant by the Respondents herein. The Appellant, before applying to the post reserved for ST candidates supplied all documents required in support of his claim as a ST candidate, and got the documents verified and approved. After being given employment however, the re evaluation of the authenticity of the documents of the Appellant have been kept pending for 19 years, dangling like a sword on the Appellants head.

14. After serving the Respondent bank for 38 years, the Appellant, two days before his superannuation received his cessation order without there being any proper enquiry. Further, on communication made to the respondent no. 1, it was found that on the date of passing the cessation order, no case was pending against the Appellant. To us, a very clear pattern of harassment is visible, and there appears to be a sinister motive against the Appellant and his right to pensionary benefits. Even after 38 years of service, irrespective of the merits of the case, the fact that the Appellant has not been treated with any respect is sad to see, and the use of delayed procedure as a dangling sword can only be interpreted as harassment.

CONCLUSION

21. At this stage we would like to clarify that in cases where employment is based on a fake community certificate the law is settled that post-retirement benefits cannot be granted. In the present case however, there exists a very clear difference. While the Respondents have claimed the Appellant's community certificate to be fake, such a claim has not been proven. Even though two reports declaring the community certificate of the Appellant as fake were submitted after inordinate and unexplained delay, however, both the reports have not allowed the participation of the Appellant.

22. A community certificate in cases of scheduled tribe communities, unlike any other piece of paper, is an acknowledgment of a person belonging to a community which has faced years of oppression. The Constitution of India guarantees certain rights to people from Scheduled Tribe communities on grounds of historical injustice, and for the translation of such rights from paper to real life, the community certificate in most cases becomes an essential document. This certificate, whilst being an acknowledgment of history, is also a document that tries to rectify such historical injustice by becoming a tool that fabricates constitutional rights into reality. In such a scenario where the validity of a community certificate is put to question, keeping in mind the importance of the document and the effect it has on people's rights, the proceedings questioning the document cannot, except in the most

exceptional circumstances, be done ex-parte.

23. Any person, whose entire identity, and their past, present and future rights are challenged, must at the least be given an opportunity to be fairly heard. In the case at hand however, such a right has been denied to the Appellant, and hence the burden of proof on the respondents to disprove the nature of the certificate, has not been discharged. In the absence of the discharge of such burden of proof, this Court must presume the community certificate of the Appellant to be genuine.

24. On the basis of the abovementioned discussions, we are of the opinion that both the impugned orders are liable to be set aside, and the Appellant is held to be entitled to the post-retirement benefits accrued to him by way of his 38 year long service. The Respondent bank is directed to grant all post-retirement benefits to the Appellant which were denied to him along with 6% Simple Interest on account of unnecessary withholding of payment, from the date the payment was due to the date of actual payment.

25. As a consequence, the appeal stands allowed. No order as to costs.

6. The learned AGP has vehemently opposed this Petition on the basis of the affidavit-in-reply filed by Respondent No.2, Deputy Secretary, Women & Child Development Department, Maharashtra

State, dated 18.09.2025 and draws our attention specifically to paragraph

Nos. 7 & 8, which read as under :-

*“7. I say and submit that on 12.9.2023 the Petitioner had submitted the application stating that he is giving up his claim as Scheduled Tribe and therefore the action in view of Government Resolution Dated 21.12.2019 and 14.12.2022 be taken. Hereto annexed and collectively marked as **Exhibit -1** the present Petition at page no.46 to 55.*

*8. In pursuant to this, the Women and Child Development Department had sought the opinion of the General Administrative Department. According to the opinion of the General Administrative Department the claim of the petitioner cannot be considered as his appointment is after 15.6.1995 and hence the Government Resolution dated 14.12.2022 is not applicable in the case of applicant. Moreover, the post on which the petitioner was working has not been placed in the category of supernumerary post and the petitioners Caste validity claim is still under consideration before the Caste Scrutiny Committee. Furthermore, stated that due to the caste validity claim of the petitioner is still pending before the Committee, the petitioner is not eligible for the service retirement benefits. Hereto annexed and marked as **Exhibit-A** is a copy of opinion given by the General Administrative Department.”*

7. It is an admitted position that the Petitioner has superannuated. The Petitioner submits that his proposal for seeking

validation of his claim of belonging to Tokre Koli – Scheduled Tribe Category was pending with the committee. Since the same has not been decided for a long time, he has informed the committee that he desires to withdraw his claim. The committee confirmed the said statement in paragraph No.7 reproduced above that the Petitioner has submitted an Application on 12.09.2023, giving up his claim. He has taken refuge in the GRs dated 21.12.2019 and 14.12.2022.

8. We find from the record, which is not contradicted, that the Petitioner has been working from 20.07.1996 till his superannuation on 30.09.2023. He has put in almost 27 years of employment. He has made a declaration before this Court that he has given up his claim and that his children namely 1) Durgesh Ashok Saindane and 2) Ritesh Ashok Saindane, have never sought benefit of reservation till today, do not have any validity certificates and will never claim validity certificates.

9. In the peculiar facts and circumstances as above and in the light of the law laid down in *Prakash S/o Fulchand Barwal through L.Rs. Vs. State of Maharashtra and Ors.*, (supra) and *R. Sundaram Vs. Tamil Nadu State Level Scrutiny Committee and Ors.* (supra), this Petition is partly allowed in terms of prayer clauses (B) and (C), which read as

under :-

“(B) To direct the Respondent No.2 to forthwith grant and release the pension and pensionary benefits to the Petitioner without insisting for submission of the Certificate of Validity as he is superannuated on 30.9.2023; by issuing appropriate writ, orders, or directions as the case may be;

(C) To direct the Respondent No.2 to forthwith grant and release the pension and pensionary benefits to the Petitioner as he is superannuated on 30.9.2023 pending hearing and final disposal of the present Writ Petition;”

10. Rule is made partly absolute in the above terms.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)