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

**REVIEW PETITION NO. 16 OF 2026
IN
WRIT PETITION NO. 9321 OF 2016**

Shivaji Shankar Baikar ... Petitioner
Versus
State of Maharashtra and ors Respondents

Mr. C.K. Bhangoji, for the Petitioner.
Mr. A.I. Patel, Addl. GP a/w Mr. A.K. Naik, AGP, for the
Respondent-State.

**CORAM : M.S.KARNIK &
S.M.MODAK, JJ.**

DATE : 13th MARCH 2026

P.C. :

1. Heard learned counsel for the petitioner and learned
Additional Government Pleader.

2. This is a review petition for the review of the order dated
16/08/2017 passed by this Court in Writ Petition No. 9321 of
2016. The order dated 16/08/2017 reads thus :

“1. The petitioner challenges the order of respondent no.2 Scrutiny
Committee whereby claim of the petitioner that he belongs to
Mahadeo Koli which is notified as Schedule Tribes is rejected. We
have perused the impugned order passed by the Scrutiny Committee.

2. The Apex Court in the case of Kumari Madhuri Patil v/s. State of Maharashtra (1994 (6) SCC 241) has held that while considering a claim of candidate due weightage will have to be given to the pre-constitutional document. It has been held that, may be with passage of time, the candidates may not be aware of the traits of particular tribe and as such they failed in affinity test. It has further been held that though due weightage will have to be given to the pre-constitutional document, the said tests will also be relevant in the facts and circumstances of each case. In the present case not a single pre-constitutional document is available with the petitioner showing that the petitioner belongs to Mahadev Koli. As a matter of fact the earliest document of the petitioner's father shows that his caste to be Hindu Mahadev Koli. No doubt that the petitioner relies on one document i.e. school leaving record of petitioner's father which shows his caste to be Mahadev Koli, however the said document is of the year 1969 i.e. much after the order of 1950 came into effect. The documents which were brought on record shows that their caste is Hindu Koli.

3. In view of the non availability of the pre-constitutional document, the affinity test would play vital role. However the petitioner has also failed the affinity test, as is evident from the Vigilance Cell report. We see nothing wrong in the view taken by the Scrutiny Committee. The Petition is rejected.”

3. This review petition is filed on 06/11/2019. The ground for filing the review petition is that the document in respect of great grandfather of the petitioner from the paternal side came to his knowledge some time prior to 16/07/2019. It is the submission of learned counsel for the petitioner that despite exercise of due diligence, this pre-constitutional document could not be produced at the hearing fo the writ petition. In paragraph 4 of the review petition, the petitioner has stated thus :

“4. The petitioner states that he by birth belongs to Mahadev Koli tribe which is recognised as scheduled tribe and therefore, he took all efforts to find out any of his pre-Constitution documents in respect of his forefathers in support of his tribe claim so as to save future generation and after several efforts, he could get school record of his great grandfather from paternal side namely Bandu Tukaram Baikar who was admitted in the primary school where his caste is recorded as Mahadeo Koli as on 19-11-1903. The petitioner states that to that effect he received school leaving certificate of his great grandfather from the concerned school i.e. Dr. Babasaheb Vidyalaya, School No.1 and also obtained school admission register extract showing caste duly recorded as Mahadev Koli. True and correct copy of school leaving certificate as well as school admission register extract in respect of great grandfather of the petitioner namely Bandu Tukaram Baikar are hereto annexed and marked collectively as Exh.'B'.”

4. Learned AGP opposed the review petition saying that there is no error apparent on the face of the order passed in the writ petition. It is further submitted that the petitioner should have been diligent in producing the document firstly before the Scrutiny Committee when caste claim was considered for validation and then before this Court when the writ petition was filed.

5. No doubt, the petitioner should have been more diligent. The petitioner claims to belong to Koli Mahadeo which is a Scheduled Tribe. The petitioner has given explanation as to why the document could not be produced. With a view not to deprive an opportunity to the petitioner to establish his caste claim as

belonging to Koli Mahadeo Scheduled Tribe, in the interest of justice, since the petitioner is relying upon the document which he claims to be that of his great grandfather, an opportunity needs to be given to the petitioner to establish his claim on the basis of the said pre-constitutional document. For these reasons, the order dated 16/08/2017 passed by this Court in Writ Petition No. 9321 of 2016 is recalled.

6. The writ petition is restored to file. Let the writ petition be placed before the appropriate Bench.

(S.M.MODAK, J.)

(M.S.KARNIK, J.)