



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3187 OF 2015

Smt. Kalgole Pragati Pandurang

.... Petitioner

v/s.

State of Maharashtra and others

.... Respondents

.....

Mr.R.K.Mendadkar for the Petitioner.

Mr.S.B.Kalel, AGP for Respondent Nos. 1 and 2-State.

Mr.H.P.Kar i/b. Inter Juris for Respondent No.3.

.....

CORAM: NITIN JAMDAR AND
M.M.SATHAYE, J.J.

DATE: 5 JULY 2024

P.C.:

Heard the learned Counsel for the parties.

2. The Petitioner has filed this petition challenging the order passed by Respondent No.2- Scheduled Tribe Certificate Scrutiny Committee, Konkan Division, Thane dated 28 January 2015 invalidating the caste certificate issued to the Petitioner on 3 January 1992 by Respondent No. 4- the Executive Magistrate, Mumbai City.

3. The Petitioner was working with Respondent No.3 in the reserved category and therefore, her caste certificate was sent for verification. The Petitioner had applied for and was granted a caste certificate as belonging to the Hindu Koli Mahadeo Scheduled Tribe.

4. In the case of *Kumari Madhuri Patil and Another Versus Addl. Commissioner, Tribal Development and Others*¹, the Hon'ble Supreme Court has *in extenso* dealt with the anthropological, social and legal aspects in respect of verification of the claims as belonging to Koli Mahadeo. The Hon'ble Supreme Court has categorically laid down that Koli and Mahadeo Koli are distinct communities, and the entry of Koli in the pre-constitution period documents would be against the claim of a person belonging to Mahadeo Koli Scheduled Tribes. The Hon'ble Supreme Court also observed that the entries in the school and revenue records of the pre-constitution period, that is, prior to 1950, would be important as they would indicate how the candidates describe themselves when the benefits of reservation are unavailable. Thereafter, the State of Maharashtra has enacted the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (the Act of 2000) regulating the scrutiny of the caste certificate. Section 8 of the Act of 2000 states that when an application is made to the Competent Authority for issuance of the caste certificate or if any enquiry is conducted by the Competent Authority and the Scrutiny Committee or the Appellate Authority under the Act, the burden of proving that the person belongs to such caste/ tribe is upon the claimant.

5. With this backdrop of the law laid down by the Hon'ble

1 (1994) 6 SCC 241

Supreme Court and the statutory provisions, if the order of the Scrutiny Committee is examined, there is no perversity in the assessment of the evidence in the impugned order. In support of her caste claim, the Petitioner submitted her affidavit, birth certificate of 1970, ration card, property documents, light bills, certificate issued by the local organization and the caste certificate issued in respect of her uncle. Admittedly, none of these documents either showed any entry of caste or they were of recent origin. Though the school records of the Petitioner's father were available, the Petitioner did not produce the same. They came to be produced and placed on record through vigilance cell enquiry ordered by the Scrutiny Committee.

6. The vigilance cell produced on record the school entries showing the date of birth and the date of admission of the Petitioner's uncles, cousin grandfather, father and the Petitioner herself. The entry in the school register in respect of the Petitioner's cousin grandfather Vithu Gana Kalgolyacha of the year 1932/1940 showed the caste as Koli. The entry in the school register in respect of the Petitioner's other cousin, grandfather Bhaskar Gana Kalgolyacha of 1933/ 1942 showed the caste as Koli. The entry in the school register in respect of the Petitioner's father Pandurang Bhana Kalgole of the year 1943/ 1958 showed the caste as Hindu. Also, the entry in the school register for the Petitioner's uncles Chandrakant Bhana Kalgole and Nandkumar Bhana Kalgole showed the caste as Hindu. The Petitioner's school record for the year 1970/1975 showed the caste as Koli.

7. The Scrutiny Committee analyzed all these documents and correctly drew an inference that the entire evidence was against the caste claim of the Petitioner as Mahadeo Koli. There is, therefore, no error in the assessment of the evidence by the Scrutiny Committee.

8. The learned Counsel for the Petitioner submitted that the Scrutiny Committee has not considered the reply of the Petitioner and therefore, there is a breach of the principles of natural justice. The Petitioner was given an opportunity and a reasoned order is passed. The Petitioner has no evidence in her favour of the pre-constitution period and the entries are against the Petitioner cannot be disputed. The Petitioner's own school record shows the entry of the caste as Koli. In light of this, we find no merits in this petition, which is accordingly dismissed.

9. The learned Counsel for the Petitioner states that the ad-interim order, which is operating in this petition, be continued for eight weeks. Considering that the ad-interim order has been operating since 2015, the position under the ad-interim order dated 27 March 2015 is continued for eight weeks from the date the order is uploaded.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)