



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION No. 446 OF 2009

Raosaheb D. Koli

..Petitioner

Vs.

General Manager, Canary Bank & Anr.

..Respondents

Mr. Ashutosh Gole, for the Petitioner.

Mr. R. P. Rele i/b Piyush Shah, for the Respondent No.1.

**CORAM : D. D. SINHA &  
A. A. SAYED , JJ.**

**DATED : JANUARY 22, 2010.**

**P.C. :**

1. Heard the learned counsel for the petitioner and the respondent No.1. The writ petition is directed against the order passed by the Caste Scrutiny Committee on 3-1-2008 whereby the caste claim of the petitioner as belonging to Mahado Koli, a Scheduled Tribe came to be invalidated as well as the order of termination dated 16-9-2008 passed by the department, whereby the services of the petitioner as clerk

came to be terminated, in view of the invalidation.

2. The learned counsel for the petitioner has submitted that the petitioner placed number of documents in support of his caste claim before the Caste Scrutiny Committee in order to substantiate his caste claim. However, the Caste Scrutiny Committee ignored those documents and placed reliance only on the document pertaining to the uncle of the petitioner Mr. Maruti Shankar for the purpose of invalidating caste certificate of the petitioner. It is submitted that the procedure adopted by the Caste Scrutiny Committee in ignoring the other documents placed by the petitioner in support of his caste claim is bad in law and therefore, the finding recorded only on the basis of the document pertaining to the caste of the uncle of the petitioner by the Caste Scrutiny Committee is unsustainable in law. It is further contended that in so far as finding recorded by the Caste Scrutiny Committee on the affinity test is concerned, the same is also not sustainable in law.

3. It is further submitted that even otherwise by virtue of the Government Resolution dated 15-6-1995, in spite of the fact that the caste claim of the petitioner is invalidated by the Caste Scrutiny Committee, the petitioner can be protected and treated to be a person

belong to Special Backward Class and the services of the petitioner stands protected and therefore, the order of termination dated 16-9-2008 being violative of the said Government Resolution cannot be sustainable in law.

4. The learned counsel for respondent No.1 supported both the orders, passed by the Caste Scrutiny Committee as well as the Bank. Considered the contentions canvassed by the learned counsel for the respective parties and perused the impugned orders passed by the Caste Scrutiny Committee and the respondent No.1. A perusal of the order passed by the Caste Scrutiny Committee shows that the document relied by the Caste Scrutiny Committee for invalidating the caste claim of the petitioner pertains to Mr. Maruti Shankar, who is real uncle of the petitioner, of the year 1960 wherein the caste of the uncle of the petitioner is mentioned as “Hindu Koli” and not “Mahado Koli”. It is not in dispute that this is the oldest document available on record and therefore, in our view it has more probative value than all the documents placed by the petitioner on record in support of his caste claim. Under these circumstances, the Caste Scrutiny Committee was justified in placing the reliance on this document in order to hold that the petitioner

has failed to establish that he belongs to “Mahado Koli”, Scheduled Caste. The finding recorded by the Caste Scrutiny Committee in our view in this regard is just and proper.

5. So far as claim of protection in service on the basis of the Government Resolution dated 15<sup>th</sup> June 1995 is concerned, this Court (Nagpur Bench) in the case of – *Shankarrao Rangrao Patkar Vs. State of Maharashtra & Ors. in Writ Petition No. 3590 of 2009, decided on 5<sup>th</sup> December 2009*, has held that the said Government Resolution is violative of the Art. 14 and 16 of the Constitution and therefore, the question of claiming protection in service on the basis of said Government Resolution does not arise. Consequently the order of termination after the caste claim of the petitioner being declared invalid, in view of the said Government Resolution does not arise. Consequently, no case is made out by the petition, therefore, the writ petition is dismissed.

Sd/-  
[D. D. SINHA, J.]

Sd/-  
[A. A. SAYED, J.]