



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1890 OF 2009

Shanabhau S/o Rambhau Sonawane,
Age – 36 years, Occu-Service,
R/o Sahur, Post : Taokheda,
Tal.Sindkheda, Dist.Dhule

-- PETITIONER

VERSUS

1. The State of Maharashtra,
Its Secretary, Tribal Development
Department, Mantralaya, Mumbai

2. The Committee for Scrutiny and
Verification of Tribe Claims,
Nandurbar Division, Nandurbar

3. Kisan Vidyalaya, Sindkheda,
Taluka Sindkheda, Dist.Dhule,
Through it's Head Master

-- RESPONDENTS

Mr.S.R.Barlinge, Advocate for the Petitioner.
Mr.P.K.Lakhotiya, AGP for Respondent No.1.

**(CORAM : RAVINDRA V. GHUGE AND
Y.G.KHOBRADE, JJ.)**

DATE : FEBRUARY 7, 2024

ORAL JUDGMENT : (Per Ravindra V.Ghuge, J.)

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

2. This Petition was admitted vide order dated 09.02.2010 and the impugned order invalidating the claim of the Petitioner of belonging to the Tokre Koli Scheduled Tribe category, was stayed.

3. We have considered the submissions of the learned Advocates for the respective sides. The undisputed position in connection with the paternal relations of the present Petitioner are as under :-

[a] The present Petitioner Shanabhau is the son of Rambhau. His grandfather is Avchit and great grand father is Kalu. Daulat is the biological brother of Avchit. Kalu and Avchit and Daulat, have entries recorded as early as in 1909 onwards indicating that they belong to Koli-Dhor Scheduled Tribe Category.

[b] Avchit had 2 sons and 2 daughters. One son is Rambhau and another son is Tanhabhau . The 2 daughters are Rupee and Kesari.

[c] Rambhau has 3 sons namely the present Petitioner Shanabhau, Baburao and Nanabhau.

[d] Nanabhau has one son Gulab, who has 2 sons namely Nilesh and Rishikesh and one daughter Priyanka.

[e] By judgment dated 18.10.2023 delivered by this Court (Coram :

Mangesh S.Patil and Shailesh Brahme, JJ.) in WP No.9654/2019 (Nilesh s/o Gulab Sonawane and another Vs. The State of Maharashtra), this Court came to a conclusion that Koli Dhor, Tokre Koli, Kolcha, Kolgha are covered by entry No.28 of the Scheduled Tribe Order, 1950. As such, all persons belonging to any of these 4 categories would belong to the Scheduled Tribe Category.

[f] A co-ordinate bench of this Court has granted validity certificate to Nilesh and Priyanka (supra) and their father Gulab, having the entry of Tokre Koli. This Court declared Nilesh and Priyanka to be belonging to the Tokre Koli Scheduled Tribe Category and granted them the validity certificates.

[g] Gulab s/o Nanabhau and the present Petitioner Shanabhau s/o Rambhau are biological first cousin brothers since their fathers Rambhau and Nanabhau are biological brothers.

[h] When this Court granted validity certificates to Nilesh and Priyanka who are nephews of the present Petitioner, we find that the view taken by the Hon'ble Supreme out in paragraph Nos.23 to 25 in Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and Others, Civil Appeal No.2502/2022 (AIR 2023 SC 1657), would be applicable to the present case.

4. In view of the above, **this Petition is allowed** in terms of prayer clause B and C, which read as under :-

“B. A writ of certiorari, or any other appropriate writ, or order or directions in the like nature, the impugned judgment and order dated 26.12.2008, passed by the Respondent No.2 Committee (annexed at Exhibit B), may kindly be quashed and set aside.

C. By a writ of mandamus, or any other appropriate writ, or order or directions in the like nature, the respondents be directed to issue validity certificate in favour of the Petitioner as belonging to “Tokre Koli Scheduled Tribe”.

5. Considering the above, we direct the Committee to issue the Tokre Koli Scheduled Tribe validity certificate to the Petitioner within 30 days from today.

6. Rule is made absolute in the above terms.

(Y.G.KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)