

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1744 OF 2018

Gopal S/o Kisan Dhone,
Age : 56 yrs, Occ. Service,
R/o. Celebration Sector,
Kharghar, Taluka Panwel,
District Raigad.

..... **PETITIONER**

...V E R S U S...

1. Scheduled Tribe Caste Certificate
Scrutiny Committee, through its
Member, Secretary, Camp Amravati
Tahsil and District Amravati

2. Dr. Datta Samant Madhyamik
Vidyalaya, through its Head Master
Kanjur Marg (West), Mumbai 400 078

.....**RESPONDENTS**

Mr. M.V. Bute, Advocate for the petitioner.

Mr. N.S. Rao, Assistant Government Pleader for respondent No.1.

CORAM:- NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.

DATE : 08.08.2024

JUDGMENT (Per : Abhay J. Mantri, J.)

1. **Rule.** Rule made returnable forthwith. Heard finally, by
the consent of the learned counsel for the parties.

2. The petitioner is dissatisfied with the order dated
29.07.2017 passed by the Scheduled Tribe Caste Certificate Scrutiny

Committee, Amravati (for short-“*the Committee*”), whereby the petitioner's caste claim of belonging to “*Koli-Mahadev*” came to be rejected. Hence, this petition.

3. The petitioner contended that he belonged to the “*Koli-Mahadev*” Scheduled Tribe. Accordingly, on 02/5-06-1982, the Executive Magistrate, Akola, issued a caste certificate in his favour. After that, vide appointment order dated 12.06.1989, the petitioner was appointed as an Assistant Teacher against the post reserved for the Schedule Tribe Category. In 2013, the petitioner submitted his caste certificate and necessary documents to the school for caste verification. The school forwarded the proposal by communication dated 30.07.2013, which the Committee received on 08.08.2013.

4. Dissatisfied with the documents submitted, the Committee forwarded them to the Vigilance Cell for a detailed enquiry. During the enquiry, the Vigilance Cell collected documentary evidence depicting “*Koli*” entries of the pre-constitutional era. On completion of the enquiry, the Vigilance Cell submitted its report to the Committee on 30.03.2017.

5. Based on the aforesaid material, the Committee called upon the petitioner's explanation. Considering the Vigilance Report, the explanation, and the documents on record, the petitioner's claim was rejected.

6. Mr. Bute, the learned Counsel for the petitioner, has submitted that the petitioner, to substantiate his caste claim, has submitted the documents depicting his caste as "*Koli-Mahadev*." However, the Committee has not considered the same and erred in relying upon the documents discovered during the enquiry. He has argued that considering the documents submitted by the petitioner, the Committee ought to have issued a validity certificate to the petitioner as belonging to the '*Koli-Mahadev*' Scheduled Tribe. Hence, he urged for quashing and setting aside the impugned order.

7. As against this, Mr. Rao, the learned Assistant Government Pleader, has vehemently argued that during the Vigilance Enquiry, the adverse entry of 'Koli' was noticed by the Vigilance Cell, and therefore, the Committee has rightly rejected the claim of the petitioner. He has prayed for the rejection of the petition.

8. We have considered the rival submissions and gone through the record.

9. On perusal of the record, it appears that during the Vigilance enquiry, four pre-constitutional era documents from 1922 to 1946 pertaining to the petitioner's father, uncle, grandfather, and great-grandfather were discovered, wherein their caste was recorded as 'Koli'. The entries dated 29.01.1922 and 26.12.1937 and the other two adverse entries were forwarded to the petitioner and called upon his explanation about those entries. By explanation dated 02.11.2016, he admitted the entry of the 'Koli' caste in the document dated 26.12.1937 of his grandfather. The said explanation itself shows that the petitioner is not disputing that his grandfather belongs to the 'Koli' caste. Besides, he has not categorically disputed the other three documents. These documents clearly show that the petitioner's ancestors belong to the 'Koli' caste. The documents are from the pre-constitution era, therefore, as per the settled legal position, they have more probative value than the subsequent documents. While dealing with the documents, it appears that the Committee has considered the adverse entries placed on record by the Vigilance Cell wherein the caste of the

petitioner's ancestors was recorded as 'Koli'.

10. As such, from the available documentary evidence, it cannot be said that the petitioner has discharged the burden as contemplated under Section 8 of the Maharashtra Scheduled Caste/ Scheduled Tribe, Vimukta Jati, Other Backward Class and Special Backward Class (Regulation of Issuance and Verification of Caste Certificate) Act, 2000 (for short- "the Act",) thereby proving that he belongs to "*Koli-Mahadev*" Scheduled Tribe.

11. Having considered the discussion supra, it reveals that during the enquiry, the Vigilance Cell has discovered the four pre-constitutional era documents pertaining to his father, uncle, grandfather and great grandfather wherein their caste is recorded as '*Koli*', which, in fact, despite offering sufficient opportunity, petitioner has not disputed the documents. On the contrary, the petitioner has admitted the 1937 document of his grandfather and also admits the entry of caste therein as "*Koli*". As such, there is no reason to discard those documents.

12. In this background, in our opinion, the petitioner has failed to discharge the burden as contemplated under Section 8 of

the Act, and the petitioner cannot be said to belong to the “*Koli-Mahadev*” Scheduled Tribe. Rather, the Committee, in our view, is justified in recording the finding that the petitioner has failed to demonstrate that he belongs to “*Koli-Mahadev*”.

13. As such, the petition has no substance and, being bereft of any merit, deserves to be dismissed. Hence, the same is dismissed accordingly. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

R. Belkhede,
Personal Assistant