



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

WRIT PETITION NO. 1745 OF 2018

Ku. Sushma d/o Tulshiram Kalskar
@ Sushma w/o Gopal Dhone,
Aged 47 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, Bye pass road,
Camp Amravati
Tahsil and District Amravati

2. Sha. Kru. Pantwalawalkar
Madhyamik Vidyalaya,
through its Head Mistress, Nehrunagar,
Kurla (East)
Tahsil District Mumbai 400 024.

.....**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 assailing the order dated 30.08.2016

passed by the respondent Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati (for short - “*the Committee*”), whereby the caste claim of the petitioner as that belonging to “*Koli-Mahadev*” has been invalidated.

3. The petitioner claims that she belongs to the “*Koli-Mahadev*” Scheduled Tribe. Accordingly, on 06.02.1982, the Executive Magistrate, Amravati, issued a caste certificate in her favour. On 02.08.1999, the petitioner was appointed as Assistant Teacher against the post reserved for Scheduled Tribe Category. On 29.06.2006, the Committee received the caste certificate with necessary documents through the Headmistress of the School for caste verification. Being dissatisfied with the documents submitted, forwarded the same to the Vigilance Cell for a detailed enquiry. The Vigilance Cell conducted a detailed enquiry and submitted a report to the Committee on 29.01.2016.

4. During the enquiry, the Vigilance Cell found two documents from 1940 and 1950 of her grandfather wherein his caste was recorded as “*Koli*”, therefore, the Committee called upon an explanation from the petitioner. However, the petitioner neither

appeared nor submitted her explanation before the Committee. Later on, 15.07.2016, the petitioner's husband appeared before the Committee and admitted the enquiry report of the Vigilance Cell. Having considered the said admission, the Vigilance Cell Report, and the documents on record, the Committee has invalidated the caste claim of the petitioner.

5. Mr. Bute, the learned Counsel for the petitioner, has submitted that the petitioner, to substantiate her caste claim, has submitted the documents depicting her 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 caste certificate 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.

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6. As against this, Mr. Rao, the learned Assistant Government Pleader, has supported the impugned order and argued that during the Vigilance Enquiry, the adverse entries of '*Koli*' were noticed by the Vigilance Cell, and the petitioner's husband has

admitted the same. Therefore, the Committee has rightly rejected the petitioner's claim. Hence, he has prayed for the rejection of the petition

7. We have considered the rival submissions and gone through the impugned order and record.

8. At the outset, it seems that, except for the caste certificate, the petitioner has not filed any document before the Committee showing her caste as '*Koli-Mahadev*'. On the contrary, during the enquiry, the Vigilance Cell found two documents from 1945 and 1950 of the petitioner's grandfather, whose caste was recorded as '*Koli*'. The petitioner does not dispute those documents, on the contrary, the petitioner's husband admitted them by admitting the Vigilance Cell report. Therefore, there is no reason to disbelieve the report. It is also a settled legal position that the pre-constitutional era documents have more probative value. As such, from the available documentary evidence, it cannot be said that the petitioner has discharged the burden cast upon her 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 thereby proving that she belongs to '*Koli-Mahadev*' Schedule Tribe.

9. 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 be belonging 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 she belongs to "*Koli-Mahadev*".

10. 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