

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2913 OF 2007

Shivaji S/o Narayan Kompalwad Petitioner

Versus

01. Scheduled Tribe Scrutiny Committee
and another Respondents

Shri S. M. Kulkarni, Advocate for the Petitioner.

Shri P. S. Patil, Advocate for the Respondent No. 1.

**CORAM : NARESH H. PATIL, AND
N. D. DESHPANDE, JJ.**

DATE ON WHICH CLOSED FOR ORDERS : 23.03.2010

DATE ON WHICH ORDER PRONOUNCED: 05/04/2010

ORDER [Per N. D. DESHPANDE, J.] :

01. Heard both sides.

02. By the present petition, the petitioner named above seeks to challenge the order dated 14/16.12.2006 passed by the respondent No. 1/Scheduled Tribe Caste Scrutiny Committee invalidating his tribe claim.

03. The petitioner claimed himself belonging to "Koli Mahadeo" (Scheduled Tribe). He was selected to the post of Shikshan Sevak against certain vacancies reserved for Scheduled Tribe. However no appointment was given by the respondent No. 2, who insisted on validity certificate. As such, petitioner's certificate for verification of his tribe claim was referred to the respondent No. 1/Scrutiny Committee. The petitioner produced as many as 18 documents including the school leaving certificate of his father, brother, sister and himself. He placed reliance on validity certificate issued to his paternal sister named Vijaya supported with a genealogical tree to substantiate his claim. The petitioner admitted that during scrutiny, he was given copy of vigilance officer inquiry report to which he filed reply. The vigilance officer's report is adverse and there is contra evidence mentioning Koli as their caste. The petitioner submitted that, he has established ethnic linkage and mutual affinity in his interview with the "Mahadeo Koli" (Scheduled Tribe).

04. Pending admission, the petitioner filed Civil Application No. 4017 of 2010 for amendment and production of documents in respect of his alleged claim. The alleged document is a revenue record regarding sale and purchase of agricultural land in the name of his grand father Gopal Sambhaji Kompalwad showing his caste, which is a document of caste entry prior to 1950 as "Mahadev Koli". Certain copies of judgments also came to be filed along with civil application of the relatives namely Manohar Pundlikrao Yamulwad dated 30th September, 2008 in Writ Petition No. 1755/2006 for remand to the Committee and that of one Kedar Sopanrao Dundhambe in Writ Petition No. 8556 of 2005 dated 19.01.2009 and also in case of Sudhakar Baburao Dharekar passed in Writ Petition No. 3601 of 2006 dated 27.01.2009, directing remand of their cases and urged for remand of his case to consider his claim.

05. Perused the impugned order passed by the respondent No. 1/Scrutiny Committee. It is seen that the respondent No. 1/Scrutiny Committee has taken into consideration all the 18 documents filed by the petitioner along with his application and examined those documents in the light of vigilance cell report in home and the school inquiry. The vigilance cell report is dated

07.02.2006 and it is seen that vigilance cell report was sent to the petitioner and he was also called for personal hearing on 06.07.2005. The petitioner was absent on 06.07.2005 and therefore, on the adjourned date i. e. on 16.08.2005 applicant appeared for interview along with additional documents and re-inquiry was also directed by the Committee through vigilance cell. The petitioner was given opportunity of further hearing on 19.10.2006. Thus, it is seen that the respondent No. 1/Scrutiny Committee has given sufficient opportunity to the petitioner and principles of natural justice have been followed. In its detailed order the respondent No.1/Scrutiny Committee observed that the school records of the petitioner and his relatives namely real brother itself is subject to the scrutiny and they are the recent documents and, therefore, cannot be used as proof of the matter.

06. The validity certificate issued to Vijaya Kishanrao Ghisewad being a relative from the maternal side, therefore said document at Sr. No. 6 was not considered as proof of the matter. It is also observed that the residence and caste certificate issued by police patil, sarpanch and talathi are not competent to issue such caste certificate and, therefore, they were not considered as proof. Much emphasis was given to the school record of the

petitioner's paternal relatives, wherein, the caste mentioned is Hindu Koli, these documents were received during the course of vigilance inquiry. On perusal it is seen that the blood relatives of the petitioner including his father's caste is shown as Koli and Hindu Koli. The respondent No. 1/Scrutiny Committee further observed that the petitioner failed in the affinity test. Thus, it is seen that the respondent No. 1/Scrutiny Committee after taking into consideration entire material on record has rightly rejected the recent documents. Therefore, impugned judgment and order in a writ jurisdiction under Article 226 of the Constitution of India call for no interference. Thus, the petitioner failed to make out a case and, therefore, petition stands dismissed.

[N. D. DESHPANDE, J.]

[NARESH H. PATIL, J.]

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