



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 717 OF 2021

Kum. Bhumika D/o Ravindra Koli,
Age : 19 Years, Occ. : Student,
R/o Padalde (Bk), Tq. Shahada,
District Dhule.

... PETITIONER

...VERSUS...

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar
Division, Nandurbar, through
its Member Secretary.
3. The Sub-Divisional Officer,
Shahada, District Dhule.
4. The Director,
Medidcal Education and Research,
Govt. Dental College and Hospital
Building, St. Goerge's Hospital
Compound, Near V. T.
Mumbai, Maharashtra 400 001.
5. The Competent Authority and
Commissioner, State Common
Entrance Test Cell, Excelsior
Theater Building, AK Nayak Marg,
Azad Maidan, Fort, Mumbai,
Maharashtra 400 001.

... RESPONDENTS

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- Mr. Mohanish V. Thorat, Advocate for the Petitioner
 - Ms. N. B. Kamble, AGP for Respondent Nos. 1 to 4 / State
 - Adv. M. D. Narwadkar, Advocate for the sole Respondent No. 5
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CORAM : **NITIN B. SURYAWANSHI AND
VAISHALI PATIL – JADHAV, JJ.**

RESERVED ON : **NOVEMBER 04, 2025**

PRONOUNCED ON : **DECEMBER 04, 2025**

J U D G M E N T [Per Vaishali Patil – Jadhav, J.] :

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

2. In this petition under Article 226 of the Constitution of India, read with the Maharashtra Act No. XXIII of 2001 and Rules of 2003, the petitioner is challenging the order dated 29.11.2020 passed by respondent no. 2 – Scheduled Tribe Certificate Scrutiny Committee (hereinafter “the Committee”), whereby it has refused to validate her ‘Tokre Koli’ Scheduled Tribe Certificate and directed it to be confiscated and cancelled, in a proceeding under that Act.

3. Learned advocate for the petitioner would submit that there are pre-constitutional entries in school admission register and

birth and death's register maintained in the ordinary course, describing the petitioner's forefathers as 'Dhor Koli', 'Koli Dhor' and 'Tokre Koli'. Petitioner has produced coloured photocopies of all the pre-constitutional entries from the Z.P. School and birth and death register of Tahsil Office, Shahada. Respondent-Committee has discarded these entries on the basis of recommendation in the vigilance report about there being interpolation of pages in the school register as well as in the birth and death register maintained in Tahsil Office. It is urged that interpolated pages are in different handwriting and different ink. According to the learned advocate, petitioner cannot assign any reason for such interpolation, as these documents were in custody of Government Office. According to him, none of the members of petitioner's family or his blood rein were serving or had any direct or indirect role in maintaining the entries. As such he would urge that no malice can be attributed to him. He has relied on the judgment of ***Manisha D/o Madhavrao Wantekar Vs. The State of Maharashtra And Others***; in **Writ Petition No.13162 of 2023**, decided on 15.01.2024 and Civil Appeal arising out of SLP(C)No.27410 of 2024.

Learned advocate would further submit that there are pre-constitutional entries of the year 1912, 1915, 1930, 1947 and 1950, which have more evidentiary value. In this background, the Committee ought to have validated the tribe claim of the petitioner as the pre-

constitutional entries have more probative value, as has been held in various judgments.

4. He would submit that though 'Dhor Koli' and 'Tokre Koli' sound different, they are covered under one and the same entry at Sr. No. 28 of the Presidential Order. According to him, observations made in *Samriddhi Yogesh Savale Vs. The State of Maharashtra and Others*; in **Writ Petition No. 1209 of 2022**, decided on 20.07.2024 are worth referring to. This Court has expressly held therein that if the legislature in its wisdom has put 'Koli Dhor' and 'Tokre Koli' in the same entry, the claim 'Tokre Koli' cannot be treated as inconsistent with that of 'Koli Dhor'.

5. Learned advocate would then submit that even the notification issued under the Maharashtra Land Revenue Code, 1966 relating to Section 36 and 36-A includes the tribal area of Nandurbar, Dhule District and the communities which are mentioned in the notification also mention Koli Dhor. In the revenue record produced by the petitioner there is mention of land being granted under Section 36 and 36-A which could have occurred only because the petitioner's ancestors were granted the lands as tribals. This fact has been

overlooked by the Committee without assigning any reason. He, therefore, prayed to allow the writ petition.

6. Learned AGP would support the impugned order. She would submit that though the petitioner has been relying upon pre-constitutional record, the caste therein is recorded as 'Koli Dhor', 'Dhor Koli' and 'Hindu Tokre Koli' is not in consistence with the claim of petitioner of 'Tokre Koli'. The Committee found interpolation in the entry of petitioner's cousin grandfather, namely, Ratan Baap Dhanji Muka in the extract of birth and death register wherein name "Ratan" is found in different handwriting and ink. She would point out that birth entry of 1930 of cousin grandfather, namely, Natthu Manga Bap Sukha Aakhadmal, wherein caste is mentioned as Dhor Koli but the first 3 pages are inserted recently and handwriting is different. Birth entry of 04.07.1947 of Girija, petitioner's father's paternal aunt is Koli Dhor but the word "Girija" is written in different ink and hand writing and that Marathi alphabet "र" is added subsequently in Caste column wherein caste is mentioned as Koli Dhor. Entry in school Admission register of petitioner's great-grand father, namely, Manga Muka Koli is of the year 04.05.1912 (wrongly mentioned as 01.08.1927 in the judgment of Scrutiny Committee), wherein caste is mentioned as Dhor Koli but the page of the entry has been inserted recently and is in different

handwriting. She would point out that the school admission register of cousin grandfather, namely, Tukaram Manga Koli of the year 1950, wherein caste is mentioned as Tokre Koli, but the name of grandfather is not there in genealogy and also that three pages are inserted subsequently and are in different handwriting. She would further point out that petitioner's cousin paternal aunt's caste in school admission register is Hindu Tokre Koli of the year 1952 whereas old entries of the year 1912, 1915, 1930 are of Koli Dhor.

7. Learned AGP would rely on order passed in **Writ Petition No.402 of 2022** in the case of ***Kiran Kailas Nikam Vs. The State of Maharashtra and Others*** and urges to take action under Section 340 of Cr.PC. against the petitioner for inserting new pages, which are in different handwriting and ink in school admission register and birth extract register. She would further rely on judgment of ***Ganesh Narayan Koli (Bagul) Vs. The State of Maharashtra and Ors.*** in **Writ Petition No.5299 of 2024** passed on 08.04.2025 for the purpose of showing consequence of interpolation in birth and death register.

8. Learned AGP relied on para 36 of the judgment in the case of ***State of Maharashtra Vs. Milind and others***, (2001) 1 SCC 4, para 30 of ***State of Maharashtra and others Vs. Mana Adim Jamat Mandal***,

(2006) 4 SCC 98 and submitted that the Court in exercise of the powers under Article 226 of the Constitution of India cannot indulge into any enquiry. The petitioner cannot take advantage merely because both the tribes Koli Dhor and Tokre Koli appear at the same serial number of the notification.

9. She would further submit that no fault can be found with the Committee in discarding pre-constitutional documentary evidence as there is interpolation and it is in different handwriting and ink. The observations of the Committee are based on correct and plausible appreciation of evidence before it. She prayed for dismissal of the petition.

10. We have considered the rival submissions and perused the original record with the assistance of the AGP. It is necessary to note that all the pre-constitutional documents are discarded by the Committee on the ground of interpolation. The Committee has not doubted the genuineness of the post-Independence Tokre Koli entries. The observations of the Committee are based on the Vigilance Cell Report, which is based on the following documentary evidence relied by the Committee in the impugned order:-

Sr. No.	Name of Document	Name of Document Holder	Blood Relation with Applicant	Record of Caste/Tribe	Date of Admission/Registration
1	Birth Register	Ratan Baap Dhanji Muka	Cousin Grandfather	Koli Dhor	30.11.1915
2	Birth Register	Natthu Manga Baap Suka Akhadmal	Cousin Grandfather	Koli Dhor	07.01.1930
The Vigilance Committee after verifying the evidence has observed that the said entries are in different handwriting and in different ink.					
3	Birth Register	Gunti Girija Mangalu Muka	Father's Aunt	Koli Dhor	04.07.1947
4	School General Register	Manga Muka Koli	Great Grandfather	Dhor Koli	01.08.1927
The Vigilance Committee after verifying the evidence has observed that the entries appear to be newly written in a different handwriting and the pages are inserted in the register later on.					
5	School General Register	Tukaram Manga Koli	Cousin Grandfather	Tokare Koli	02.03.1950
The Vigilance Committee after verifying the evidence has observed that the pages 1 to 3 of the register appear to be newly written in a different handwriting.					
6	School General Register	Ahilyabai Baap Manga Koli	Father's Aunt	Hindu Tokare Koli	01.06.1952
7	Mutation Entry	Mangalu Muka Koli and Others	Great Grandfather	-	
8	Mutation Entry	Ratan Dhanji, Mangalu Muka and Others	Great Granfather and Cousin Grandfather	-	1963-64
9	School General Register	Ravindra Bhanudas Koli	Father	Hindu Koli (Tokre)	06.06.1977
10	School General Register	Arunkumar Bhanudas Koli	Uncle	Hindu Tokre Koli	12.06.1980
11	School General Register	Pravinkumar Bhanudas Koli	Uncle	Hindu Tokre Koli	03.06.1981
12	School General Register	Sachin Sudam Koli	Cousin Brother	Hindu Tokre Koli	16.06.1993
13	School General Register	Riya Pravin Koli	Cousin Sister	Hindu Tokre Koli	30.06.2003
14	School General Register	Bhumika Ravindra Koli	Applicant	Hindu Tokre Koli	16.06.2008
15	7/12 Extract	Bhanudas Manga Koli	Grandfather	-	2014-15

11. The above chart shows that, the pre-constitutional entries from the school admission register and birth and death register of petitioner's cousin grandfather, paternal aunt of father, great-grand father were Koli Dhor, the record of her father's aunt of 1952 is Hindu

Tokre Koli, but the Committee has discarded this evidence on the basis of Vigilance Committee report, wherein it is observed that there is interpolation in all these entries.

12. The Committee has refused the Entry No.1 in the chart which is the entry in birth and death register of cousin grandfather Ratan Baap Dhanji Muka giving the reason that the name Ratan is written in different handwriting and ink. We have perused the original register and it came to our notice that in the name column it is written as “Baap Ratan Dhanji Muka” and subsequently, all the entries are written in this fashion without mentioning the name of the person whose birth entry is being made. The name of person in respect of whom the entry is being made appears to be added subsequently, not only in case of petitioner’s cousin grandfather but this is observed in respect of all the entries made in the entire register for the simple reason that the names must have been informed to the authorities after the person being named and for this reason, we do not find that there is any interpolation in respect of Entry No.1.

13. Entry No’s. 2, 4 and 5 are discarded by the Committee for the reason that these pages appear to be inserted subsequently as the handwriting and the ink appears to be different than the pages before

and after the pages of these entries in the register. We have scrutinized the original birth and death register as well as the school admission register and we do not find any interpolation. In the entire record different handwriting in different ink is found as different persons holding the charge of post in public office authored the entries at different times.

14. The Committee has discarded Entry No. 3 of the petitioner's father's paternal aunt, wherein the Committee found that in the birth and death register name "Girija" is in different hand writing and ink and alphabet "र" in Koli Dhor appears in different ink and handwriting. We have scrutinized the original record, wherein we find that name "गिरी" is scribed and name Girija is being added. On the same page after this entry there are many other entries wherein the name is scribed and different names are written. From the above it appears that the practice adopted in the public office is that of carrying correction in the name. As such, same cannot be stated to be interpolation. The word "र" also does not appear in different handwriting and ink. In respect of Entry No.1, doubt is raised by the Committee that in the caste column the caste is shown as 'Hindu Tokre Koli', which is of the year 1952, so it is being made purposely only to take benefit of Scheduled Tribe.

15. As now it is settled law that pre-constitutional record would carry greater probative value as compared to the later period as has been laid down in the matter of ***Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and others*** (2012) 1 SCC 113. Para 22 of the said judgment reads as under :-

“It is manifest from the aforeextracted paragraph that the genuineness of a caste claim has to be considered not only on a thorough examination of the documents submitted in support of the claim but also on the affinity test, which would include the anthropological and ethnological traits, etc., of the applicant. However, it is neither feasible nor desirable to lay down an absolute rule, which could be applied mechanically to examine a caste claim. Nevertheless, we feel that the following broad parameters could be kept in view while dealing with a caste claim:

(i) While dealing with documentary evidence, greater reliance may be placed on pre-Independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. In case the applicant is the first generation ever to attend school, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim. In fact, the mere fact that he is the first generation ever to attend school, some benefit of doubt in favour of the applicant may be given. Needless to add that in the event of a doubt on the credibility of a document, its veracity has to be tested on the basis of oral evidence, for which an opportunity has to be afforded to the applicant.”

16. After Vigilance Cell’s report was served upon the petitioner by the Committee, the petitioner has submitted his explanation to the same. The least that was expected of the Committee, which is a Quasi-

Judicial body, to deal with the reply given by the petitioner to the Vigilance Cell's report.

17. It was expected of the committee to be sensitive to the provisions of Section 73 of the Indian Evidence Act and corresponding Section 72 of Bhartiya Sakshya Adhiniyam. As per the said provisions, it is open for the Quasi-Judicial bodies, like, the respondent- Committee to compare the handwriting and reach at a proper conclusion.

18. In light of the reasoning recorded herein above, it is apparent that the Committee has neither taken any expert's opinion on the issue, nor thought it fit to even record the statement of any of the public servant, who has authored the aforesaid record or allegedly tampered the record or who was the custodian of the same. Merely because the Vigilance Cell has given an opinion that by itself won't bind the Committee to reach to the said conclusion. The least that is expected of the Quasi-Judicial body, like the respondent- Committee, is to apply its own mind to the factual matrix, the evidence given on record and the provisions of the Act. If we consider the scheme of Section 8 of the Act of 2000, it casts burden on the petitioner, who is the claimant, to establish that he belongs to a caste or tribe. If we peruse the caste/tribe entries in regard to the blood relations of the

petitioner, which are reflected in the tabular form reproduced in Para-10, it is apparent that the oldest entry relates back to 1912. There is consistency in the entry of Koli Dhor/Dhor Koli. At certain places, word 'Hindu Tokre Koli' also appears.

19. The entry 'Dhor Koli' or 'Tokre Koli', is recorded at one and the same serial number in the Constitution of India, Scheduled Tribe Order. Once the pre and post-Independence era documents, in relation to the blood relation of the petitioner, reflect the tribe entry of 'Koli Dhor' and 'Tokre Koli', it has to be inferred that the petitioner has discharged the burden, as contemplated under Section 8 of the Act. In such an eventuality, it was for the respondent- Committee to place on record adverse evidence, so as to discard the old pre- Constitutional era documentary evidence, which the Committee has failed. As such, we have no hesitation to hold that the petitioner has discharged the burden as casted on her under Section 8 of the Act of 2000.

20. In such situation it was incumbent on the part of the Committee to seek explanation from the authorities about the alleged interpolation, who are the custodians of the original records. For this purpose, we can rely on the observations made in para nos. 12 to 15 in

the case of **Sayana Vs. State of Maharashtra and others**, (2009) 10 SCC 268, which reads thus :-

"12. The report dated 1-12-2003 forwarded by the Police Inspector, Vigilance Cell, nowhere mentions that the certificate dated 17-5-1972 produced by the appellant to establish that he belongs to Mannerwarlu Scheduled Tribe is a forged one. The contents of the certificate dated 17-5-1972 show that the said certificate was issued on the basis of the certificate issued by the President of Kundalwadi Municipality. The report dated 1-12-2003 of Police Inspector does not indicate whether the Police Inspector had recorded the statement of the President of the Municipality to find out whether the certificate issued by the President was genuine or not.

13. What is relevant to notice is that in the report dated 1-12-2003 the Police Inspector has merely stated as a matter of fact that the word "lu" was subsequently added while recording the caste of the appellant as Mannerwarlu in the school register. The Police Inspector has not stated that the word "lu" was interpolated by the appellant. There is every possibility that the word "lu" was not mentioned at the time of recording of the caste of the appellant and on being pointed out the correct spelling of caste, the word "lu" was added. Addition of word "lu" subsequently would not lead to an irresistible conclusion that the said word was added by the appellant or at his behest.

14. It is difficult for this Court to understand as to on which basis the Scrutiny Committee came to the conclusion that the word "lu" was interpolated in the register of the school more particularly when it was not so opined by the Police Inspector who had conducted the enquiry. Whether interpolation by addition has taken place can be stated by a handwriting expert or by comparison of admitted letters of a person with this disputed one. It is an admitted position that the Scrutiny Committee had never attempted to get an expert's opinion nor itself had compared the disputed letters with admitted one of the appellant.

15. Under the circumstances, the finding recorded by the Scrutiny Committee that the word "lu" was interpolated will have to be regarded as not based on any credible evidence. The Police Inspector had never taken care to find

out whether the word "lu" was subsequently added by the school authorities or by the appellant. It was necessary for the said officer to undertake such an exercise in view of the specific defence of the appellant that the school record was lying with the school authorities and he had no opportunity whatsoever to tamper with the same."

21. Therefore, in our considered view, on the basis of Entry Nos. 1 to 6 in the chart, the petitioner has succeeded in proving her caste as 'Tokre Koli'.

22. The Committee has also invalidated the caste claim of the petitioner on the ground that the pre- Constitutional caste entries mentioned as 'Dhor Koli' at Sr. Nos. 1 to 5 in the chart are not consistent with her caste claim of 'Tokre Koli' as the post- Constitutional entries are of 'Tokre Koli'. The committee observed that petitioner cannot take benefit of this inconsistency though 'Dhor Koli' and 'Tokre Koli' are found to be in the same notification no. 28. In this context, it will be apposite to refer the observations made by Division Bench of this Court in the matter of ***Samriddhi Yogesh Savale (supra)*** as follows :-

"17. One need not delve deep to observe that every entry in the constitutional order / schedule has its own sanctity and has to be understood and applied strictly as laid down in Milind Sharad Katware and others Vs. State of Maharashtra and others; 1987 Mh.L.J. 572. Admittedly, the tribe 'Koli' which was initially included in other backward class, subsequently, was included in special backward class. As against this, 'Tokre Koli' or 'Dhor Koli' are included in entry at serial no. 28 of scheduled tribes.

Obviously, therefore, Koli entries would be inconsistent with the claim of 'Dhor Koli' or 'Tokre Koli'.

18.

19. *It is just possible that the person providing the information may describe the caste as 'Koli' even without what he meant was to describe that it with an adjective, 'Dhor' or 'Tokre'. While recording the entries 'Dhor Koli' or 'Tokre Koli' or 'Koli Dhor' he or they would do it consciously emphasizing the adjective having a different connotation. Therefore, though per se, the entry 'Koli' is inconsistent with the claim of being 'Tokre Koli' or 'Dhor Koli', when there are plentiful entries of 'Dhor Koli' or 'Tokre Koli' of the pre-constitutional period, in our considered view, the principle of preponderance of probabilities would apply and would substantiate the petitioner's claim. It is not merely a question of mathematical calculation as to how many are the favourable entries as against the contrary entries of 'Koli'. It would be a matter of appreciation of the circumstances while making those entries, that too in pre-constitutional era. Obviously, when many of the pre-constitutional entries are of first quarter of the 20th century when the rate of literacy must have been drastically low, even if there are few contrary entries of 'Koli', in our considered view, not much weight can be attached to it when simultaneously there are plentiful favourable entries as well, of the same period.*

20.

21.

22. *There is one more aspect which needs to be emphasized in this context. A person would not derive any additional advantage or benefit by being described as 'Tokre Koli' instead of 'Koli Dhor' or vice versa. This would be another reason not to treat such claims to be inconsistent. Therefore, when, as is mentioned herein-above, there is acceptable documentary evidence of pre-constitutional period wherein the petitioner's forefathers were described as 'Dhor Koli' or 'Koli Dhor', the committee*

could not have refused to extend its benefits to her when she has been claiming to be a 'Tokre Koli'.

Applying the above ratio, the Committee should not have refused the claim on the ground that pre- Constitutional entries are 'Dhor Koli' and post- Constitutional entries are of 'Tokre Koli' and that petitioner should not take benefit of Entry No. 28.

23. The Committee has also invalidated the caste claim of the petitioner on the ground that petitioner has failed to prove the affinity test. It is held in ***Anand Vs. Committee for Scrutiny and Verification of Tribe Claims and others*** (supra) and same is reiterated in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. The State of Maharashtra and others*** in Civil Appeal No.2502/2022 that the affinity test cannot be conclusive either way. It has been held that when the affinity test is conducted by the Vigilance Cell, the result of the test along with all other material on record having probative value will have to be taken into consideration by the Scrutiny Committee for deciding the caste validity claim. It has also been held that the affinity test is not a litmus test to decide the caste claim and is not an essential part in the process of determination of correctness of a caste or tribe claim in every case.

24. For the above reasons, the impugned order passed by the Committee is unsustainable. The Petition deserves to be allowed. Hence, the following order:

ORDER

- i. Writ Petition is allowed.
- ii. The impugned order dated 29.11.2020 passed by Respondent No.2 - Committee is hereby quashed and set aside.
- iii. The Committee is directed to issue validity certificate of "Tokre Koli, Scheduled Tribe" to the petitioner within four weeks from the date of uploading of the order.

25. Rule is made absolute accordingly.

[VAISHALI PATIL – JADHAV, J.]

[NITIN B. SURYAWANSHI, J.]