

(1997) 05 BOM CK 0012

In the Bombay High Court

Case No : rit Petition No"s. 4679 of 1994, 4910 of 1995 and 4680 of 1996

Anil Supdu Koli

APPELLANT

Vs

Scheduled Tribe Caste Certificate Scrutiny Committee and
others

RESPONDENT

Date of Decision : 06-05-1997

Acts Referred:

Constitution of India, 1950 — Article 226, 342

Citation : (1998) 4 BomCR 483 : (1998) 1 MhLj 862

Hon'ble Judges : B.H. Marlapalle, J;A.P. Shah, J

Bench : Division Bench

Advocate : S.M. Kulkarni, S.C., V.J. Dixit, R.G. Karmarkar and S.D. Kulkarni, for the Appellant; S.K. Kadam, A.G.P., for the Respondent

Judgement

B.H. Marlapalle, J.—Writ Petition No. 4679 of 1994 has been filed by Shri Anil Supdu Koli challenging the order dated 29-11-1994 passed by the Scheduled Tribe Caste Certificate Scrutiny Committee at Nasik rejecting the claim of the petitioner that he belongs to Tokre-Koli which falls in the Scheduled Tribe category. Writ Petition No. 4910 of 1995 has been filed by Shri Sababkha Ikabalkha Tadavi challenging the award of MS/HSD Retail Outlet Dealership at Karki, District Jalgaon in favour of the petitioner in Writ Petition No. 4679 of 1994. The said retail outlet dealership was reserved for Scheduled Tribe category and the petitioner in Writ Petition No. 4910 of 1995 was second in the order of merit as prepared by the Oil Selection Board for the award of the said retail outlet dealership. Whereas Shri Anil Supdu Koli was first in the order of merit of the selected candidates for the said retail outlet dealership and accordingly he was issued a letter of intent. Writ Petition No. 4910 of 1995 thus impugns the letter of intent granted to Shri Anil Supdu Koli. Writ Petition No. 4680 of 1996 has been filed by the petitioner in Writ Petition No. 4679 of 1994 i.e. Anil Supdu Koli challenging the action of the Oil Selection Board, Maharashtra, Goa, Diu and Daman in not taking any further steps in allowing the petitioner to start the retail outlet dealership in pursuance of the letter of intent granted to him. As all the

writ petitions are inter-connected they are being decided by the common order, as per consent of the learned Counsel of the respective parties.

2. The petitioner in Writ Petition No. 4679 of 1994 is resident of Maskavad (Bk), Taluka Raver, District Jalgaon and he claims to be belonging to Tokre-Koli caste which falls in the Scheduled Tribe category. He has acquired diploma in Civil Engineering in 1991 and in pursuance of the advertisement issued by respondents Nos. 4 and 5 in the month of February, 1993, he had applied for award of MS/HSD Retail outlet dealership at village Kerki as reserved for the category of Scheduled Tribes. Subsequent to the selection procedure followed by the Oil Selection Board, the petitioner contends that, the letter of intent dated 21st December, 1993 was granted to him and in pursuance of the said letter of intent the petitioner proceeded further for acquiring land and making necessary investments for starting the MS/HSD outlet dealership at Kerki and the District Magistrate had granted necessary permission on 6th December, 1994 in favour of the petitioner.

3. However, the petitioner in Writ Petition No. 4910 of 1995, who was listed at serial No. 2 in the selection list, made by the Oil Selection Board, complained to the Commissioner of Nasik Division stating that the petitioner in Writ Petition No. 4679 of 1994 did not belong to the Scheduled Tribes category. The Commissioner at Nasik, therefore, issued notices to the parties and heard arguments of the advocates. By order dated 28-4-1994 the Commissions- was pleased to dismiss the complaint of Shri S.I. Tadavi, who is petitioner in Writ Petition No. 4910 of 1995. However, Shri Tadavi again complained to the Co-ordinator of Oil Selection Board in the month of June/July 1994, and therefore, a reference was made by the said Board on 25-7-1994 to the Scheduled Tribes Caste Certificate Scrutiny Committee Nasik Region at Nasik for deciding the caste claim of the petitioner in Writ Petition No. 4649 of 1994. The Scrutiny Committee issued notices to all the parties concerned and the petitioner appeared before the Scrutiny Committee and vide his letter dated 30-8-1994 tendered the necessary documents including a copy of the order passed by the Additional Commissioner Nasik Division accepting the caste claim of the petitioner i.e. Shri Anil Supdu Koli. The Scrutiny Committee by the impugned order dated 29-11-1994 rejected the claim of Shri Anil Supdu Koli and held that he did not belong to Tokre-Koli Caste. The Committee further directed to forfeit the caste certificate issued in favour of the said person. Shri Anil Koli petitioner in Writ Petition No. 4679 of 1994, has impugned the said order dated 29-11-1994.

4. A number of documents submitted by Shri Anil Koli pertaining to himself and to his near relations have been scrutinised and considered by the Caste Scrutiny Committee. As observed by the Scrutiny Committee in the impugned judgment, document listed at Sr. No. 3 is a Dakhala issued by the Police Patil, Maskavad, Taluka Raver, District Jalgaon in respect of the candidate himself and in that document the caste of the candidate as well as his father and close relations is mentioned as Suryawanshi Koli falling in the Hindu O.B.C. category. It is further

observed that the petitioner approached the Police Patil subsequently on 5-4-1994 and obtained a Dakhala of Tokre-Koli caste- a Scheduled Tribe, by misguiding him. The Caste Scrutiny Committee further observed that the documents listed at Sr. Nos. 1,2, 15 to 23 were the school leaving certificates, birth extracts pertaining to the candidate and his relatives wherein the caste is mentioned as Other Backward Class Suryawanshi Koli. These documents were maintained by the public authorities in the ordinary course of business and hence carried more probative and evidential value to determine the candidate's caste claim. The documents at Serial Nos. 4 to 7 and 10 to 14 were pertaining to the candidate and his relations and all these documents, it is observed by the Scrutiny Committee," are silent regarding the caste status. Under the circumstances the Caste Scrutiny Committee rightly observed that these documents cannot be relied upon in support of the claim of the petitioner. The Committee came to the conclusion that the Executive Magistrate, Raver, District Jalgaon issued the caste certificate to the petitioner only on the strength of the application submitted by his father, the Dakhala issued by Talathi and the affidavits and the said certificate was issued in a very casual manner. It is thus clear that the Caste Scrutiny Committee rightly came to the conclusion that there was no basic documentary evidence in support of the caste claim made by Shri Anil Supdu Koli and the said findings of the Committee do not suffer from any errors apparent on the face of the records. The findings recorded by the Committee do not call for any interference under Article 226 of the Constitution.

5. Mr. Dixit, learned Counsel for Anil Koli, vehemently submitted that the impugned order has been passed by the Caste Scrutiny Committee which was formed as per old rules and his claim deserves to be referred for fresh adjudication to the Committee constituted by the State of Maharashtra recently in pursuance of the Supreme Court Judgment in Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, . However, on perusal of the record we find that there is no prima facie case in support of Shri Dixit's submissions. We are satisfied that there is no document on record which prima facie supports the claim of Shri Anil Koli that he belongs to Taket-Koli caste. As against this, the documents on record as submitted before the Caste Scrutiny Committee, established that the said Anil Koli belongs to Suryawanshi Koli caste which is listed as Hindu O.B.C. In the result, we hereby confirm the findings recorded by the Caste Scrutiny Committee vide the impugned judgment dated 29-11-1994 and reject Writ Petition No. 4679 of 1994. Rule already granted stands discharged.

6. In Writ Petition No. 4910 of 1995 the petitioner S.I. Tadavi, on whose complaint the Caste Scrutiny Committee confiscated the caste certificate of Anil Supdu Koli by declaring that he does not belong to Tokre-Koli caste, has challenged the award of letter of intent in favour of said Shri Anil Supdu Koli by the Oil Selection Board and Bharat Petroleum Corporation Limited. It is not disputed that the proposed MS/HSD retail outlet at village Kerki, District Jalgaon was reserved to be allotted to a candidate belonging to Scheduled Tribes

category. It is also not in dispute that in the merit list prepared by the Oil Selection Board for allotment of the said retail outlet dealership, Anil Koli was at serial No. 1 and Shri S.I. Tadavi was at Sr. No. 2 in the order of merit. In consequence of our order passed in Writ Petition No. 4679 of 1994 confirming the judgment of the Caste Scrutiny Committee, the caste claim of the allottee of letter of intent i.e. Shri Anil Koli claiming to be belonging to Scheduled Tribe category has been rejected and in the result his selection for award of dealership reserved for Scheduled Tribes category is, therefore, null and void. As a result of our order rejecting Writ Petition No. 4679 of 1994, the claim of the petitioner in Writ Petition No. 4910 of 1995 has to be accepted when he is already at Sr. No. 2 in the merit list prepared by the Oil Selection Board for allotment of dealership at Kerki, District Jalgaon. In the result, we hereby direct the Oil Selection Board and Bharat Petroleum Corporation Limited to withdraw the letter of intent granted to Shri Anil Supdu Koli and allot the same to Shri Sababkha Ikaabalkha Tadavi. Writ Petition No. 4910 of 1995 is hereby accordingly allowed and the Rule is made absolute accordingly.

7. As far as Writ Petition No. 4680 of 1996 filed by Anil Supdu Koli is concerned, the same is hereby rejected in view of our directions in Writ Petition No. 4910 of 1995. Mr. Dixit, learned Counsel for the petitioner, states that though the caste claim of Anil Koli is rejected finally, he has made huge investment in starting the proposed Oil Depot at village Kerki, District Jalgaon and at this belated stage it will not be just and proper to direct the Oil Selection Board to withdraw the letter of intent already granted to him. We are not impressed with the submissions made by Shri Dixit. Any person who has been allotted letter of intent on a wrong caste claim cannot be permitted to continue with the agency/dealership which has been reserved for the Scheduled Tribes category, because if such a situation is allowed to continue the basic purpose of reservation for upliftment of the socially under privileged class will be defeated. In view of this, W.P. No. 4680 of 1996 stands rejected. There shall, however, be no order as to costs in all these writ petitions.

8. Order accordingly.