

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.2610/2002

Avachit s/o Chandrabhan Jadhav,
aged 25 yrs., occu.nil,
r/o Digaon Post Deulgaon Bazar,
Tq.Sillod Dist.Aurangabad.

...Petitioner..

Versus

- 1] The State of Maharashtra.
- 2] The Committee for Scrutiny and
Verification of Tribe Claims
(Through its Member Secretary),
Aurangabad.
- 3] The Collector, Aurangabad.
- 4] The Taluka Executive Magistrate,
Kannad Dist.Aurangabad.
- 5] The Maharashtra State Road Transport
Corporation, Through its Divisional
Controller, Aurangabad.

...Respondents...

.....

Shri K.M. Nagarkar, Advocate for petitioner.
Smt.M.S. Patni, AGP for respondent nos.1,3 & 4.
Shri P.S. Patil, Advocate for respondent no.2.
Smt.Ranjana Reddy, Advocate for respondent no.5.

.....

**CORAM: S.V. GANGAPURWALA &
A.I.S. CHEEMA, JJ.**

DATE: 06.05.2015

ORDER :

- 2 -

1] Heard learned counsel for the parties.

2] Learned counsel for the petitioner submits that the committee while invalidating the tribe claim of the petitioner as belonging to Koli Malhar – scheduled tribe has failed to consider the school record of the petitioner, which clearly states the caste as Koli Malhar. The learned counsel submits that one of the cousin cousin sister of the petitioner has been issued validity certificate as belonging to Koli Malhar scheduled tribe. The learned counsel submits that there is no contra evidence. The parents of the petitioner are illiterate. As such the old document is not coming forth. The learned counsel submits that even the vigilance could not find out any contra evidence. The learned counsel further submits that the committee has not considered the affinity test in its correct perspective and thereby has arrived at erroneous conclusion.

3] Learned counsel for the respondent no.2 – committee submits that there is a contra evidence. Inam document shows that the land has been given in favour of father of the petitioner, which only states caste as Koli Inam. It

- 3 -

is given to the persons belonging to special backward class. According to the learned counsel, even the petitioner has miserably failed in the affinity test.

4] We have considered the submissions canvassed by the learned counsel for respective parties.

5] The genealogy submitted before the scrutiny committee is completely different than the one submitted in this Court. Both do not have any resemblance with each other.

6] There is contra evidence in the nature of Inam document in favour of father of the petitioner, which only records the caste as Koli Inam. Nowhere the caste is recorded as Koli Malhar.

7] The committee has also considered the affinity test. It has been observed that the petitioner has miserably failed in the affinity test. There is also contra evidence. Apart from one document, there is no other document worth the name to consider the caste of the petitioner as Koli Malhar. We would have considered the prayer of the petitioner for remitting the petition back to the committee for consideration had the genealogy before the committee would have depicted the name of the

- 4 -

person in whose favour the validity is issued and the same is produced in the present matter. Still the fact that in the affinity test also, the petitioner could not succeed, we do not find that any error is committed by the committee.

8] The writ petition as such is dismissed. Rule is discharged. No order as to costs.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)