

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.4791 OF 2015

Pawankumar s/o Vishnu Khot,
Age-23 years, Occu:Student,
R/o-Govardhanwadi,
Tq. & Dist-Osmanabad.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through it's Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32,
- 2) The Scheduled Certificate Scrutiny
Committee, Aurangabad Division,
Aurangabad, Through its Deputy
Director (R), Aurangabad,
- 3) The Sub-Divisional Officer,
Osmanabad, Tq. & Dist-Osmanabad.

...RESPONDENTS

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Mr. P.V. Jadhavar Advocate for Petitioner.
Mr. S.G. Sangle A.G.P. for Respondent Nos.
1 and 3.
Mr. K.D. Bade Patil Advocate for Respondent
No.2.

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

DATE : 27TH APRIL, 2015

ORAL JUDGMENT [PER S.V. GANGAPURWALA, J.] :

1. Rule. Rule made returnable forthwith. With the consent of the learned counsel for the parties, taken up for final hearing.

2. Mr. Jadhavar, the learned counsel for the Petitioner submits that the Petitioner has filed application seeking tribe certificate as belonging to "Koli Mahadev", Scheduled Tribe with Respondent No.3. The said application is rejected by Respondent No.3. The Petitioner filed appeal before Respondent No.2. The appeal is also dismissed. The learned counsel for the Petitioner submits that school record of the Petitioner shows the caste being recorded as "Koli Mahadev", Scheduled Tribe. The second cousin of the Petitioner has been issued validity certificate.

Father of the Petitioner is illiterate farmer and as such is not having school record. The counsel submits that there is no contra evidence on record. The counsel further submits that at this stage detailed investigation is not required and the Authorities are required to be prima facie satisfied only.

3. The learned A.G.P. for State and Mr. Patil, the learned counsel for Committee submit that the Petitioner has failed in the affinity test. The validity certificate which is sought to be relied, is also not relevant as the name of the said person does not appear in the pedigree.

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

5. It is trite that at the stage of issuance of tribe certificate detailed investigation and

enquiry is not contemplated. The Authority has to be prima facie satisfied. It appears that the name of Tulshiram Gangadhar Khot appears in the pedigree submitted by the Petitioner. Be that as it may. School record of the Petitioner consistently shows the caste recorded as "Koli Mahadev". Even in respect of his real brother and sister, the school record shows that the caste is recorded as "Koli Mahadev". Considering this prima facie evidence, there was no impediment for the Authority to issue the tribe certificate. Of course, the tribe certificate, at the time of validation proceedings, will have to undergo affinity test and detailed inquiry.

6. In light of above, we pass following order:

O R D E R

(A) The impugned orders are quashed and

set aside.

(B) Respondent No.3 shall issue tribe certificate to the Petitioner as belonging to "Koli Mahadev", Scheduled Tribe, which certificate certainly will always be subject to the scrutiny in the validation proceedings.

(C) Writ Petition allowed, accordingly.
Rule made absolute in above terms. No costs.

[A.I.S.CHEEMA, J.]

[S.V. GANGAPURWALA, J.]