

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 6034 OF 2013

NETAJI SUBHANRAO ETANBONE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Lale Santram N.
AGP for Respondents: Mr.G.K.Thigale.
Advocate for Respondent No.2 : Mr. Tele Ashok B.

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CORAM : **S. V. GANGAPURWALA and
V. L. ACHLIYA, JJ.**

DATE : 24th February, 2015.

PER COURT :

. Mr.Lale, learned counsel for the Petitioner submits that the Committee has invalidated the tribe certificate of the Petitioner as belonging to "Koli Mahadeo" Scheduled Tribe without considering the school record of the Petitioner in its correct perspective. Only because the word 'ॠ' is written in a different ink that would not be sufficient to discard the said document nor such a writing can be attributed to the Petitioner. The learned counsel relies on the judgment of the Apex Court in a case of **Sayanna Vs. State of Maharashtra and others**, reported in **[2010 (1) ALL MR 957 (S.C.)]** so also the judgment of the Division Bench of this Court in Writ Petition No.241 of 2010, dated 24th September, 2010. According to the learned counsel, the school record of the Petitioner clearly shows that the Petitioner belongs to "Koli Mahadeo" Scheduled Tribe. Even the second cousin of the Petitioner has been awarded validity as belonging to "Koli Mahadeo" Scheduled Tribe. When the blood relative of the Petitioner has been awarded validity certificate as belonging to "Koli Mahadeo" Scheduled Tribe, the Petitioner is also

required to be awarded validity certificate as belonging to “Koli Mahadeo” Scheduled Tribe. According to the learned counsel, the Committee has not considered the said evidence in its correct perspective.

2 Mr. Tele, learned counsel for the Respondent – Committee submits that there is not a single document showing the caste of the Petitioner as “Koli Mahadeo” Scheduled Tribe. The Petitioner has made contra statements. At one place, it is stated that their occupation is agriculture and at other place stated that they do not have any agricultural land. At one place, it is stated that the Petitioner does the job of collecting firewood, whereas, in other place, it is stated that the Petitioner and his family members are labours.

3 We have considered the submissions canvassed by the learned counsel for respective parties and also gone through the vigilance report, the judgment and the documents produced on record. The vigilance has conducted an inquiry wherein it is found that the word 'फ' has been written in between the words “Hindu” and “Koli” in a different ink. The school record of the Petitioner's brother and sister only records the caste as “Koli”.

4 We would have considered the submissions of the learned counsel for the Petitioner considering the judgment of the Apex Court in the case of *Sayanna (supra)*, had there been any other documents corroborating the case of the Petitioner. Even the statements made by the Petitioner do not satisfy the affinity test. The vigilance has considered the original school record of the Petitioner and the said certificates. In absence of any other corroborative piece of evidence, it would be unsafe to rely on the school record of the Petitioner wherein the word 'फ' shown to have been inserted in between the words “Hindu” and “Koli” with a different ink. Except the said two certificates, there is not a single document even

remotely suggesting that the Petitioner belongs to “Koli Mahadeo” Scheduled Tribe.

5 In light of the above, no case for interference is made out.

6 Accordingly, the writ petition is dismissed. However, with no order as to cost.

7 The record is returned back to the learned counsel for the Respondent – Committee.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

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