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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 3224 OF 2002
WITH CIVIL APPLICATION NO./7818/2011**

Namdeo S/o Parasram Wagh
Age 43 years, Occ-Service,
R/o Plot No.51, New Nandanvan Colony,
Aurangabad, Dist.Aurangabad. .. PETITIONER

VERSUS

- 1] The State of Maharashtra
[Copy to be served on the
Govt.Pleader, High Court
Bench at Aurangabad]
- 2] The Scheduled Tribe Caste
Certificate Verification Committee
Through its Chairman/Director,
Aurangabad Division, Aurangabad.
- 3] The Taluka Executive Magistrate
Sillod, District Aurangabad.
- 4] The Deputy Conservator of Forests
Aurangabad Division, Aurangabad
- 5] The Collector,
Collectorate, Aurangabad. ..RESPONDENTS

Advocate Mr.M.A.Golegaonkar h/f Mr.A.S.Golegaonkar for petitioner
Additional Government Pleader Mrs.A.V.Gondhalekar for R. 1 to 5.

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**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL,JJ.**

DATE : 15/09/2017

ORAL JUDGMENT :-

Mr.Golegaonkar, learned counsel for the petitioner submits that the Committee while rejecting the tribe claim of the petitioner of Koli Malhar (Scheduled Tribe) has not considered consistent school record of the petitioner. It records the caste as Koli Malhar. The school record of the petitioner's brother also records the caste as Malhar Koli. Only because the pre-1950 record was not produced, the committee has negated the tribe claim of the petitioner. The learned counsel further submits that the son and the daughter of the petitioner have been issued with the validity certificate of Koli Malhar (Scheduled Tribe). The son has been granted the validity certificate of Koli Malhar (S.T.) on 29/10/2010 and the daughter of the petitioner has been granted validity certificate of Koli Malhar (S.T.) on 6/6/2011. The real brother of the petitioner has also been granted a validity certificate of Koli Malhar (ST) on 14/9/2010. The learned counsel submits that these are after the invalidation of the tribe claim of the petitioner.

2] The learned AGP submits that the entry in the record of the

father of the petitioner records the caste as Koli and not Malhar Koli. The basic document is against the petitioner. No documents having high probative value of the period prior to 1950 are produced on record. The petitioner has also failed in the affinity test. Considering the above, the judgment is rightly passed by the Committee.

3] From the documents filed on record alongwith Civil Application to the present Writ Petition, it is manifest that son of the petitioner viz. Mukesh Namdeo Wagh has been issued with the validity certificate of Koli Malhar (ST) on 29/10/2010. The daughter of the petitioner viz. Suvarna Namdeo Wagh is issued with the validity certificate of Koli Malhar (ST) on 6/5/2011. The real brother of the petitioner viz. Gulabrao Parashuram Wagh is issued with the validity certificate of Koli Malhar (S.T.) on 14/9/2010. The school record of the petitioner, his brother consistently records the caste as Koli Malhar (ST) The affinity cannot be the sole test for determination. The affinity test can at the most be a corroborative piece of evidence. Considering the voluminous record in the shape of the validation granted to the son, daughter and real brother of the petitioner and also the other record, we do not see any impediment to direct the Committee to grant validity to the petitioner.

4] In the result, the impugned judgment and order is quashed and

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set aside. The Committee shall issue validity certificate to the petitioner of Koli Malhar (S.T.) Rule made absolute in above terms.

5] In view of disposal of Writ Petition, Civil Application is disposed of.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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