

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3739 OF 2002

Sanjeev S/o. Prakash Kabade,
Age: 21 Years, Occu.: Student,
R/o.: Nai Abadi, Maqbool Vihir,
Near Panchayat Samiti Godown,
Udgir, Dist.: Latur.

.. **Petitioner**

Versus

1. The State of Maharashtra.
2. The committee for Scrutiny and
Verification of Tribe Claims,
MS Aurangabad.
3. The Maharashtra State Educational Research
and Training Institute, Pune.
4. The Principal,
Junior College of Education (D. Ed.),
Pandharpur, Dist.: Solapur.
5. The Tahsildar and Taluka
Executive Magistrate,
Udgir, Dist.: Latur.

.. **Respondents**

Shri U. R. Aute h/f Shri S. B. Talekar, Advocate for the
Petitioner.

Shri M. B. Bharaswadkar, A. G. P. for Respondent Nos. 1 to 3
and 5.

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

DATE : **7th September, 2017**

ORAL ORDER (PER S. V. GANGAPURWALA, J.) :

1. Mr. Aute, the learned counsel submits that voluminous record is produced by the petitioner to satisfy the tribe claim of the petitioner as belonging to 'Koli Mahadeo' scheduled tribe. The committee has not considered the said aspect and only relied on one document i.e. the school record of the father wherein caste is mentioned as 'Koli'. In another school record of the father of the petitioner no caste is mentioned, whereas, in record of the petitioner his brother cousin's caste is recorded as 'Mahadeo Koli' in each and every document. The learned counsel submits that, during the pendency of the present writ petition the committee has validated the tribe claim of the real elder brother of the petitioner namely Deelip Prakash Kabade and had issued the certificate of validity on 1st August, 2011, so also, the real cousin brother has been issued with the validity in 2007. Even, the cousin brother and sister's claim as belonging to 'Mahadeo Koli' scheduled tribe has been allowed by this court in Writ Petition No. 438 of 1985 under judgment and order dated 19th / 20th June, 1986.

2. Mr. Bharaswadkar, the learned A. G. P. submits that petitioner would get his caste from parent. In the school record of the father of the petitioner caste is recorded as 'Koli'. In view of that, as the basic document records caste as 'Koli' the petitioner cannot claim to belong to 'Koli Mahadeo' scheduled tribe. Even, the petitioner has failed to prove the affinity and ethnic linkage to that of 'Koli Mahadeo' caste.

3. We have considered the submissions and we have gone through the documents and the judgment.

4. With the documents filed on record alongwith the short affidavit it appears that the real elder brother of the petitioner has been issued with the validity certificate of 'Koli Mahadeo' scheduled tribe on 1st August, 2011. So also, cousin brother namely Sunil Baburao Kabade has been issued with the validity certificate on 19th December, 2007. Affinity cannot be the sole ground to determine the caste, of course, it can be a corroborative piece of evidence.

5. Considering the fact that the real elder brother of the petitioner has been issued with the validity certificate subsequently we deem it appropriate to remand the matter back to the committee to consider the said aspect and the evidence considered while giving validity to the real elder brother.

6. In light of the above, the impugned judgment and order is quashed and set aside. The parties are relegated before the committee for decision afresh, on its own merits. The petitioner may produce the copies of the certificate of validity issued to the real elder brother and the cousin paternal brother. The petitioner shall appear before the committee on 3rd October, 2017.

7. Considering the fact that the matter is remanded back the committee shall decide the proceedings expeditiously.
8. Rule is accordingly made partly absolute. No costs.

[MANGESH S. PATIL, J.] [S. V. GANGAPURWALA, J.]

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