

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

**WRIT PETITION NO.6557 OF 2007
WITH
CIVIL APPLICATION NO.8822 OIF 2015**

Surajkumar s/o. Kondiba Jatale ..Petitioner

Vs.

The State of Maharashtra
and ors. ..Respondents

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Mr.A.S.Golegaonkar, Advocate for petitioner
Mrs.M.A.Deshpande, AGP for respondent nos.1 and 3
Mr.R.P.Phatake, Advocate for respondent no.2

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**CORAM : S.V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.
DATE : MARCH 14, 2017**

ORDER :

Heard.

2. Mr.Golegaonkar, learned Counsel for the petitioner submits that respondent no.2 - Committee has invalidated the tribe claim of the petitioner that he belongs to 'Koli Mahadev' scheduled tribe. He submits that in the case of the father of the petitioner also, the tribe claim

was initially invalidated by the Committee, however, thereafter, by the order of this Court in the Writ Petition filed by the father of the petitioner, the matter was remanded back to the Committee, which proceedings is still pending with the Committee.

3. The learned Counsel for the petitioner further submits that voluminous documents have been submitted to substantiate the claim of the petitioner that he belongs to 'Koli Mahadeo' scheduled tribe. He further submits that during pendency of this petition, the paternal cousins of the petitioner namely, Mahadeo Nagnath, Vishwanath Namdeo, Vinayak Vishwanath and Radhabai Vaijnath, have been issued validation certificate after conducting the vigilance enquiry. All these persons are paternal cousins of the petitioner, which fact would be relevant. According to the learned Counsel for the petitioner, caste claim of the petitioner deserves to be validated.

4. The learned Counsel for respondent no.2 submits that respondent no.2 - Committee, after considering the Vigilance Cell report, has invalidated the tribe claim of the petitioner.

5. Apparently, in our view, the evidence in respect of the petitioner and his predecessors is shaky, which aspect has been rightly considered by the Committee. It is not in dispute that the tribe claim of the father of the petitioner is still pending with the Committee as it was remanded back by this Court while deciding the Writ Petition filed by the father of the petitioner. It appears that during pendency of the present Writ Petition, the paternal cousins of the petitioner have been issued validation certificates and the same would be relevant. Of course, the petitioner will have to prove the genealogy and the relationship with them. The Vigilance Cell would be in a better position to enquire about the relationships of the petitioner and the record.

6. Considering the aforesaid aspects, we pass the following order :-

(i) The impugned order invalidating the tribe claim of the petitioner is quashed and set aside.

(ii) The parties are relegated before respondent no.2 – Committee. The petitioner shall appear before the respondent no.2 – Committee on 03.04.2017.

(iii) The petitioner is entitled to produce the additional documents/evidence in the shape of the validation certificates issued to his paternal cousins. The same would be considered by respondent no.2 upon making necessary enquiry.

(iv) Respondent no.2 shall decide the tribe claim of the petitioner along with the proceedings pending in respect of the father of the petitioner, expeditiously and preferably, within a period of six months from the date of appearance of the petitioner before the Committee.

(v) Since the petitioner is in service, it is needless to state that till the validation proceedings are decided by respondent no.2, respondent no.3 shall not take any adverse action against the petitioner on the ground that the validation proceedings are pending. Respondent no.3 may take action depending upon the decision that may be taken by respondent no.2 – Committee in the validation proceedings.

(vi) With these directions, the Writ Petition stands disposed.

(vii) In view of disposal of the Writ Petition, pending Civil Application stands disposed of.

(viii) The record be sent back immediately to respondent no.2 – Committee.

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

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