

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4570 OF 2014

Yatin Prakash PatilPetitioner
V/s.
The State of Maharashtra & Ors.Respondents

Mr. R.K.Mendadkar with Mr. C.K.Bhangoji, Advocates for Petitioner.
Mr. C.P.Yadav, AGP for the Respondent Nos.1 to 3-State.

**CORAM :- B.R.GAVAI &
SANDEEP K. SHINDE, JJ.**

DATE :- 7TH NOVEMBER, 2017.

PC. :-

The Petitioner has approached this Court praying for quashing and setting aside of the order dated 5.2.2014 vide which claim of the Petitioner of belonging to 'Tokare Koli' has been rejected. Mr. Mendadkar the learned counsel appearing for the Petitioner submits that the Respondent-Committee itself has validated the claim of the Petitioner's real uncle namely, Anil Ramkrishna Patil. He submits that in view of the judgment and order of the Division Bench of this Court in the case of **Apoorva Vinay Nichale v. Divisional Caste Certificate Scrutiny Committee No.1 and Others** reported in **2010(6)Mh.L.J.401**, claim of the

Petitioner could not have been rejected.

2 Taking into consideration the fact that Petitioner's real uncle namely, Anil Ramkrishna Patil has been granted validity certificate, we had requested the learned AGP to place on record original file pertaining to the case of the Petitioner's real uncle namely, Anil Ramkrishna Patil.

3 The learned AGP has placed before us original file pertaining to the Petitioner's real uncle namely, Anil Ramkrishna Patil.

4 Perusal of the order passed by the Scrutiny Committee would reveal that the Scrutiny Committee has found that all pre-constitutional documents pertaining to the Petitioner's paternal side, show caste as that of 'Hindu Koli'. Not only that we have perused the original file pertaining to the grant of validity certificate in favour of Anil Ramkrishna Patil. Perusal of the file would reveal that Vigilance Cell has specifically found that entry pertaining to the admission of Anil's father, Ramkrishna Patil in Asoda Primary School, District: Jalgaon on 1.6.1939 has shown the caste to be 'Hindu Koli'. It appears that the Scrutiny Committee only on the basis of Petitioner's statement that some of the relatives of the said Anil had been granted validity certificate of belonging to 'Tokare Koli' has granted

validity certificate in favour of said Anil.

5 The Division Bench of this Court to which one of us is party (Gavai, J.) while sitting at Nagpur in PIL No.102 of 2013 vide order dated 15.4.2016 has categorically held that law laid down by this Court in the case of **Apoorva Vinay Nichale v. Divisional Caste Certificate Scrutiny Committee No.1 and Others** reported in **2010(6)Mh.L.J.401** cannot be stretched to an extent that validity granted in favour of close relatives though erroneously has to be considered as binding on Committee to grant validity in respect of other relatives.

6 It has been categorically held that only when validity has been granted after thorough enquiry and after conducting enquiry through Vigilance Cell, such validity would operate as binding factor on Committee while considering the cases of other relatives.

7 The Apex Court in the case of **Anand Katole v. Committee for Scrunity and Verification of Tribe Claims and Others** reported in **(2011) Mh.L.J. 919** has categorically held that pre-constitutional documents will have more probative value while considering the claim of the candidate. Admittedly, neither the said Anil nor the present Petitioner have been in a position to point out

any document showing the caste of their forefathers as 'Tokare Koli'. In that view of the matter, affinity test would play relevant factor. Perusal of the impugned order would reveal that the Petitioner also failed to pass affinity test. We find that while considering the case of Anil Ramkrishna Patil, this aspect has not been taken into consideration by the then Committee.

8 In that view of the matter, we do not find that any error is committed by the Committee rejecting the claim of the Petitioner. The Petition is, therefore, rejected.

(SANDEEP K. SHINDE, J)

(B.R.GAVAI, J)