

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

WRIT PETITION NO. 8926 OF 2018

Ashwini Maroti Dantulwad

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri S. M. Kulkarni, Advocate h/f Shri O. B. Boinwad, Advocate for the Petitioner.

Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 and 2.

Shri Sujit G. Karlekar, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
SUNIL K. KOTWAL, JJ.**

DATE : 03RD AUGUST, 2018.

FINAL ORDER :

. The caste claim of the petitioner as belonging to Koli Mahadev (Scheduled Tribe) is invalidated.

2. Mr. Kulkarni, the learned advocate for the petitioner submits that, the real sister of the petitioner has been issued with the validity certificate of Koli Mahadev (S.T.) in the year 2008. The entire school record of the petitioner, his sister and father record the caste as Hindu Mahadev Koli. The learned counsel submits that, oldest entry is in respect of the grandfather of the petitioner in the revenue record i. e. Khasara Patrak,

which records the caste as Mahadev Koli. The said Khasara Patrak is of the year 1954-1955. According to the learned counsel on the basis of the some entries of villagers with whom petitioner is not related, the claim is invalidated.

3. Mr. Patil, the learned Additional Government Pleader submits that, the notice is issued to the sister of the petitioner for reopening the validation proceedings, as the same is obtained by suppression of material facts. The learned Addl. G. P. further submits that, the school record of the petitioner's father was never produced and all other entries are recent entries. The school record of the family members of the petitioner has been obtained in which caste is recorded as Koli. The learned Addl. G. P. further submits that, because of the suppression of facts, the validity was issued to the sister. The same may not be relied upon. The petitioner also could not prove the affinity test.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. It is matter of record that the real sister of the petitioner has been issued with the validity certificate in the year 2008. The school record of the petitioner and the brother records the caste as Koli Mahadev. One old document that is Khasara Patrak of the year 1954-1955 in the name of grandfather is

produced, wherein Mahadev Koli is recorded.

6. It appears that, the vigilance has verified the document of Khasara Patrak produced by the petitioner, so as to test genuineness of the said entry. At present there is nothing before us to suggest that the said entry is improper. It is submitted that, show cause notice is issued to the real sister of the petitioner, who has been issued with the validity certificate.

7. In similar set of facts when the paternal relative is given validity certificate and committee was contemplating re-opening of the proceedings granting validity to them the Division Bench of this Court at the Principal Seat at Bombay in Writ Petition No. 7500 of 2018 and many other writ petitions directed issuance of validity to the petitioners subject to the decision in the proceedings re-opened by the Committee of the validity holder relied by the petitioner.

8. Considering the documents on record and the validity in favour of the real sister of the petitioner and also considering the judgment and order dated July 23, 2018 in Writ Petition No. 7500 of 2018 passed by the Division Bench of this Court at its Principal Seat at Bombay, it would be appropriate to direct the respondent/Committee to issue validity certificate to the petitioner of Koli Mhadev (Scheduled Tribe) subject to outcome of

the proceedings in case that would be reopened by the respondent/Committee of the real sister of the petitioner.

9. Considering the fact that, the petitioner has been provisionally admitted to the M. B. B. S. and tomorrow is last date for submitting validity certificate, the respondent/Committee shall issue the validity certificate of Koli Mahadev (S. T.) to the petitioner immediately. The writ petition is accordingly disposed of. No costs.

10. Naturally, in case validity certificate of the sister of petitioner is subsequently invalidated, the petitioner cannot claim any equity, nor would be entitled to protect the admissions.

[SUNIL K. KOTWAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/Aug. 18

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