

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

WRIT PETITION NO. 8923 OF 2018

Rutuja Vijaykumar Mekewad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioner.
Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 to 3.
Shri S. G. Karlekar, Advocate for the Respondent No. 4.

**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. Aggrieved thereby present writ petition.

2. Mr. Vibhute, the learned counsel for the petitioner submits that, the father of the petitioner has been issued with the validity certificate on 11.01.2011. So also the real paternal aunt of the petitioner Sunita Babarao Mekewad has been issued with the validity certificate of Koli Mahadev. The learned counsel submits that, the school record of the petitioner and her parent records caste as Koli Mahadev. The learned counsel for the

petitioner further submits that, the Committee has relied upon the school record of some other persons, whose even relation is not quoted by Committee. The same is erroneous.

3. Mr. Patil, the learned Additional Government Pleader for the respondents submits that, in the school record of the Sunita and all these persons caste Koli has been subsequently changed. Head Master of the said school has given statement to that effect before the Scrutiny Committee. This aspect was suppressed in the validation proceedings of the father and paternal aunt of the petitioner. Even the petitioner could not succeed in establishing the affinity test.

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

5. It is not disputed that the father of the petitioner has been issued with the validity certificate in the year 2011. It is also not disputed that the real paternal aunt of the petitioner has been issued with the validity certificate in the year 2006. As far as record of maternal side is concerned, the same would not be relevant.

6. The respondents have relied upon the statement of the head master, who has suggested that the word Mahadev has

been either prefixed or suffixed to the word Koli and the same appears to be in different ink.

7. The school record, which is placed shows the entry either Mahadev Koli or Koli Mahadev. There is nothing before us to conclude as to whether the change in the entry is at the behest of the petitioner.

8. 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.

9. Considering the fact that, the father of the petitioner and real paternal aunt of the petitioner are issued with the validity certificates and considering prima facie entries on record 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 Committee to issue validity certificate to the petitioner of Koli Mahadev (S.T.). However in case the

respondent/Committee reopens the validation proceedings of the father of the petitioner and real paternal aunt of the petitioner, then the present validity certificate would be subject to the decision that would be taken in case of validation proceedings of the father and paternal aunt of the petitioner.

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

11. Naturally, in case validity certificate of the petitioner's father and paternal aunt relied by the petitioner are 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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