

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

973 WRIT PETITION NO.7767 OF 2019

**AKASH SUNIL VAYKHINDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

**Advocate for Petitioners : Jadhavar Pratap V.
AGP for Respondents: S.P.Deshmukh**

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

DATE : 26/06/2019

FINAL ORDER :

Heard. Rule. Rule returnable forthwith. With the consent of the parties the matter is heard at the admission stage.

2] Mr. Jadhavar, learned advocate for the petitioner submits that the tribe claim of the petitioner as Koli Mahadev (Scheduled Tribe) is invalidated by the committee without considering the validity certificate issued to the father of the petitioner and to the real uncle's son of the petitioner. The validation proceedings of Rishikesh, Anil Vaykhinde the real paternal cousin was invalidated. He had filed Writ Petition No. 9026 of 2018. This Court by order dated 07.06.2019 has allowed the said Writ Petition and directed the committee to issue validity certificate. The real uncle of the petitioner Anil is also issued with the validity certificate of Koli Mahadev (S.T.).

3] The learned A.G.P. submits that the old record of the petitioner depicts caste as Koli, the same is in O.B.C. The petitioner also could not prove the affinity test. Considering all these aspects, the

committee rightly invalidated the tribe claim.

4] The father of the petitioner is issued with validity certificate of Koli Mahdev (S.T.) and the real paternal uncle of the petitioner Anil is issued with the validity certificate of Koli Mahadev (S.T.). The first degree paternal cousin i.e. Rishikesh son of Anil has been issued with the validity certificate under the orders of this Court in Writ Petition No.9026 of 2018 dated 07.06.2019. Even paternal uncle's sister of the petitioner is issued with the validity certificate of Koli Mahadev (S.T.). It is trite that the affinity test is not litmus test. It is a corroborative piece of evidence. Reliance can be had to the judgment of Apex Court in the case of **Anand V/s Committee for Scrutiny and Verification of Tribe Claims and others reported in AIR 2012 SC 314.**

5] Considering the validity issued to the father of the petitioner, real paternal uncle of the petitioner, the son and daughter of the real paternal uncle of the petitioner and the order of this Court in Writ Petition No.9026 of 2018 dated 07.06.2019 in the case of real paternal uncle's son Rishikesh, the impugned order invalidating tribe claim of the petitioner is set aside. The Committee shall issue the validity certificate to the petitioner of Koli Mahadev (S.T.), the same shall be issued within four weeks.

6] Writ Petition is accordingly allowed. Rule made absolute. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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