

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

1051 WRIT PETITION NO.8093 OF 2019

SHUBHANGI NITIN JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. P.V.Jadhavar, Advocate for Petitioner.
Mr. V.M.Kagne, AGP for Respondents-State.
Mr. S.G.Karlekar, Advocate for Respondent No.4.

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

DATE : 19.07.2019

PER COURT :-

1. The caste claim of the petitioner as 'Koli Mahadev' Scheduled Tribe is invalidated.
2. Mr. Jadhavar, the learned counsel for the petitioner submits that the father of the petitioner is issued with the validity certificate of 'Koli Mahadev' Scheduled Tribe. So also one paternal cousin namely Ramesh is issued with the validity certificate of 'Koli Mahadev' Scheduled Tribe. The school record of the petitioner, his father and grandfather record caste as 'Koli Mahadev'. The learned counsel submits that there is no contra evidence on record. Even the

Revenue record shows that the land held by the grandfather of the petitioner is Adivasi land within the meaning of Section 36 and 36A of the Maharashtra Land Revenue Code. Still the Committee has rejected the claim only on the ground that one branch of Nathu has school record recording his caste as 'Koli'.

3. Mr. V.M.Kagne, the learned AGP submits that the Dnyandeo and Rama are sons of Nathu. They are not shown in the Genealogy by the petitioner. Their school record records the caste as 'Hindu Koli'. The said documents are for the period of 1954 to 1961. The said entries would negate the case of the petitioner. In addition to it, the petitioner has also failed in the affinity test. The entries in the school record of Dnyandeo and Rama were not brought to the notice in the validation proceedings of the father of the petitioner.

4. We have considered the submissions. It is not disputed that the father of the petitioner is issued with the validity certificate of 'Koli Mahadev' Scheduled Tribe. The paternal cousin Ramesh is also issued with validity certificate of 'Koli Mahadev' Scheduled Tribe. The school entry of the petitioner, his father and grandfather records caste as 'Mahadev Koli'. The vigilance has not found any interpolation

in the said record. The Committee has relied on the school record of Dnyandeo and Rama where the caste is recorded as 'Koli'. Dyandeo and Rama appear to be sons of Nathu, however they are not shown in the genealogy produced by the petitioner.

5. There are consistent entries of 'Mahadev Koli' in the School record of petitioner, his father and grandfather. The school record of the grandfather is of the year 1959 in contradistinction to the school entries in the record of Dnyandeo and Rama. It is also the fact that the father of the petitioner and paternal cousin of the petitioner are issued with the validity certificates.

6. Considering the above, we passed the following order :

ORDER

(i) The impugned order is quashed and set aside.

(ii) The Committee shall issue validity certificate of 'Koli Mahadev' Scheduled Tribe to the petitioner immediately.

(iii) The said validity certificate shall be subject to the decision that would be taken by the Committee, in case the validation proceeding in

respect of the father of the petitioner is re-opened.

7. The Writ Petition is disposed of. No costs.

(MANGESH S. PATIL, J.)

(S.V. GANGAPURWALA, J.)

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vmk/-