

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

979 WRIT PETITION NO.8681 OF 2019

**RUTWIK DILIP RAUT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**...
Advocate for Petitioner : Jadhavar Pratap V.
AGP for Respondents: P.S.Patil**

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

DATE : 17/07/2019

PER COURT :

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

2] We have heard Mr.Jadhavar, learned advocate for the petitioner and Mr.Patil, learned Additional Government Pleader.

3] The petitioner relies on the validity certificates issued to the real brother Sagar Dilip Raut and real sister Arti Dilip Raut. He also relied on the validity certificate issued to the real paternal uncle's son Amol Ramji Raut. According to the learned advocate the vigilance was conducted at the time of getting validity of Amol and the school record of Amol's father Ramji was also verified. It was noticed by the committee at that time that the caste is not recorded in the school record of Ramji. The learned advocate submits that the school record of the petitioner's father records caste as Koli, however, except the said isolated contra entry there is no other entry showing caste recorded as Koli. All the records of the petitioner, his father, record

caste as Koli Mahadev. The learned Addl.Govt.Pleader submits that the oldest record is of the year 1956 school record of the uncle of the petitioner wherein caste is recorded as Koli and also in the school record of the father of the petitioner. The learned AGP further submits that the petitioner has not proved affinity test at the time of issuing validity certificate of the real brother and sister of the petitioner, this fact has not been considered.

4] One of the documents produced while giving validity certificate to Amol S/o Ramji Raut, is the document of the year 1339 Fasli (1929) i.e. the sale of cattle. The said document is in Modi script. The translation of the said document in Marathi was produced while giving validity to Amol and there it was observed that the caste of the grand father of the petitioner Mahadu is recorded as Mahadev Koli. Naturally if the said document is genuine, it will have more probative value. As far as uncle's record is concerned, T.C. has been produced on record wherein no caste is recorded. The same is of the year 1956. However, before the vigilance in the case of the present petitioner, the Head Master has issued certificate of the caste being recorded as Koli in the school record of uncle of the petitioner. The T.C. produced on record does not record any caste in case of the uncle of petitioner.

5] The most clinching evidence would be document of 1339 Fasli i.e. document of sale of a cattle. In the Marathi translation it has been stated that caste of the grand father of the petitioner in the said document is recorded as Mahadev Koli.

6] In fact the committee ought to have got the document of 1339 Fasli alongwith its translation verified. The committee found the said document to be of part of record while issuing validity certificate to

Amol who is real paternal uncle's son.

7] The committee has observed that it has decided to reopen proceeding granting validity certificate to the petitioner's real brother, real sister, real uncle's son Amol. Naturally all these documents will have to be verified at that time. In fact the document of 1339 Fasli was verified through vigilance by the committee. In case of Amol Ramji Raut if the committee had any doubt in respect of said documents, it ought to have verified the present case also after having verified the said document in the record of Amol Raut.

8] Considering all the aforesaid aspects, we pass the following order :

The impugned order is set aside. The committee shall issue validity certificate to the petitioner of Koli Mahadev (Scheduled Tribe) immediately. The same shall be subject to the decision that would be given by the committee in case of reopening of the proceeding granting validity to the real brother, real sister and real uncle's son of the petitioner.

9] Writ Petition is disposed of. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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