

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

1014 WRIT PETITION NO.8812 OF 2019

GAYATRI KAUTIK CHANDOL THROUGH FATHR KAUTIK
BAYAJI CHANDOL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. Bayas Anandsingh, Advocate for Petitioners.
Mr. P.S.Patil, AGP for Respondents-State.
Mr. S.G.Karlekar, Advocate for Respondent No.3.

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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 petitioners as 'Malhar Koli' Scheduled Tribe is invalidated.
2. Mr. Bayas, the learned counsel for the petitioners submits that in the school record of the petitioner's grandfather, the caste is recorded as 'Malhar Koli'. So also in the school record of the paternal uncle of the petitioner Laxman Ukhaji the caste is recorded as 'Malhar Koli' in the year 1960. All the documents produced on record of the petitioners, her paternal cousins demonstrate the caste recorded as 'Malhar Koli'. There are no contra entries on record. The validity is also issued to the paternal cousin of the petitioner namely Vilas. The Committee concluded that

in the school entry of the petitioner's grandfather Bayaji Thamaji 'Malhar' is written in a different ink. The vigilance did not find the same to be suspicious. According to the learned counsel, at the same time in respect of the paternal cousin, entries recorded as 'Malhar Koli' of the year 1960, the vigilance nor the Committee has expressed any doubt over the said entry.

3. Mr. Patil, the learned AGP submits that the school record of the petitioner's grand father appears to be suspicious. Word 'Malhar' is written in a different writing. Even the school record of the cousin uncle namely Shyamrao records caste as 'Koli'. The said document is of the year 1966 and 1968. The other cousin uncle of the petitioner i.e. Pandit records the caste as 'Koli', so also the cousin grandfather namely Godaji the entry is recorded as 'Koli'. All these aspects have been considered by the Committee. The petitioners have also failed in the affinity test.

4. It is not disputed that the paternal cousin of the petitioner Vilas Kondiba is issued with the validity certificate of 'Koli Malhar' Scheduled Tribe. The vigilance nor the Committee has found any discrepancy in the entry of 'Malhar Koli' of the cousin uncle of the petitioner Laxman Ukhaji.

The said entry is also of the year 1960 depicting 'Malhar Koli'. The petitioners have denied the relationship of Shamrao, Godaji, Nitin. There is nothing to show that these persons are related to the petitioners so as to construe their contra entries adverse to the petitioners. Apart from that all the entries show the caste being recorded as 'Malhar Koli'. The cousin of the petitioner namely Vilas is issued with the validity certificate.

5. Considering all these validities issued, we passed the following order :

ORDER

- (i) The impugned order is quashed and set aside.
- (ii) The Committee shall issue validity certificate of 'Koli Malhar' Scheduled Tribe to the petitioners immediately.
- (iii) The said validity certificate shall be subject to the decision that would be taken by the Committee, in cases of the validity holders whose proceedings are re-opened and relied by the petitioners.

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

(MANGESH S. PATIL, J.)

(S.V. GANGAPURWALA, J.)

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vmk/-