

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
999 WRIT PETITION NO.9058 OF 2019**

AKSHAY BALAJI MASALGE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Sunil M. Vibhute, Advocate for the Petitioner.

Mr. P. S. Patil, AGP for Respondents-State.

...

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

DATED : 01st AUGUST, 2019.

PER COURT:-

1. The tribe claim of the petitioner as Koli Mahadev, Scheduled Tribe is invalidated.

2. Mr. Vibhute, learned counsel for the petitioner submits that the father of the petitioner Balaji, real paternal uncle of the petitioner Vilas, three children of real paternal uncle of the petitioner Vilas namely Prashant, Anjali and Manjusha are issued with the validity certificate of Koli Mahadev. The contra entry in the school record of real paternal uncle of the petitioner Vilas of Koli was brought to the notice of the committee while considering the validation proceedings of Vilas. The said entry was not suppressed. The learned counsel submits that the school entry of the petitioner, father, cousin brother record caste as Koli Mahadev. Even death certificate of the cousin grandfather of the

petitioner Vishwanath records caste as Koli Mahadev. According to the learned counsel Koli Ramkishan Vishwanath whose entry is referred to as contra is not related to the petitioner.

3. The learned A.G.P. submits that in view of the contra evidence on record in respect of the petitioner's paternal uncle and aunt the committee has rightly rejected the claim of the petitioner. The petitioner has also failed in the affinity test.

4. The relationship of the petitioner with that of Vilas, Prashant, Anjali and Manjusha is not disputed. It is also not disputed that the validity are granted to the persons as referred to by the petitioner. The contra evidence in the school record of the uncle of the petitioner Vilas as Koli was not suppressed by Vilas when the validity was obtained by him. It appears that the committee has considered the said contra entry also while issuing validity to Vilas.

5. Considering the aforesaid aspects, we pass the following order:

ORDER

- i. The impugned order is quashed and set aside.
- ii. The committee shall issue validity certificate to the petitioner of Koli

Mahadev, Scheduled Tribe. The same would be subject to the decision that would be taken by the committee in the proceedings that are reopened of the validity holders relied by the petitioner. In case, the validity certificates issued to the validity holders relied by the petitioner are canceled, then the petitioner would not be entitled for any equity.

6. Writ Petition is disposed of. No costs.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE