

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

1060 WRIT PETITION NO.9103 OF 2019

**SHIVRAJ RAOSAHEB PALLEWAD
VERSUS
THE STATE OF MAHARASHTRA AD OTHERS**

**Advocate for Petitioner : S.M.Vibhute h/f Boinwad Omgashad B.
And Adhav Ganesh R.**

AGP for Respondents: A.R.Kale

Advocate for Respondents : Narwadkar Mrigesh D. For R No. 3

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

DATE : 02/08/2019

PER COURT :

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

2] Mr. Vibhute learned counsel for the petitioner submits that father of the petitioner is issued with validity certificate of Koli Mahadev (S.T.). While issuing validity to the father of the petitioner, the vigilance was conducted. All entries right since beginning, record caste as Koli Mahadev in the school record of the petitioner, his father. There is no contra evidence on record. The respondents are relying upon entries in K Patrak of one Gangaram Jaiwanta Jalewad and Dhondiba Jaiwanta Jalewad. In fact the petitioner or his ancestors did not have any landed property. Gangaram Jaiwanta and Dhondiba Jaiwanta are different persons. Their death certificates are also placed on record by the petitioner to show that they belong to the family of Jalewad whereas petitioner is Pallewad. Those persons

whose K Patrak is produced are not related to the petitioner by any stretch. The great grandfather of the petitioner was Jaiwanta Mahadu, whereas in some K Patrak, reference is made to Jaiwanta Narsingh.

3] The learned A.G.P. submits that the petitioners are denying relationship of Gangaram Jaiwanta and Dhondiba Jaiwanta and their K Patrak, only because there was contra evidence of K Patrak recorded in their names. The petitioner also failed in the affinity test. According to the learned A.G.P. show cause notice is issued to the father of the petitioner as to why validity should not be cancelled.

4] The respondent with precision could not establish the relationship of the persons in the K Patrak whose names appear as Gangaram Jaiwant and Dhondiba Jaiwant to be petitioner's relatives. Gangaram Jaiwanta Pallewad and Dhondiba Jaiwant Pallewad are the paternal relatives of the petitioner. To substantiate their case that Dhondiba Jaiwanta Jalewad and Gangaram Jaiwanta Jalewad are different persons, the petitioner has produced copies of death certificates of these persons. The case of the petitioner is that the great grand father of the petitioner is Jaiwanta Mahadu, whereas in the same K Patrak, reference is made to Jaiwanta Narsing. In fact the committee through vigilance ought to have made thorough investigation in respect of the same. The relationship is not being established by the committee in respect of those persons whose names appear in the K Patrak. Apart from that, all the entries in the school record right since beginning are consistent recording caste as Koli Mahadev.

5] The petitioner has also stated before the vigilance that the

petitioner nor is predecessor at any time held any landed property, the same is not also disputed by the vigilance.

6] Considering the above we pass the following order :

I] The impugned judgment is quashed and set aside.

II] The committee shall issue validity certificate to the petitioner as Koli Mahadev (S.T.) immediately. The same shall be subject to the decisions in the cases of above referred validity holders relied by petitioner and sought to be reviewed by the committee. In case the validity certificate of the validity holder relied by the petitioner is cancelled, the petitioner would not be entitled to claim equity and protect the admission.

7] Writ Petition is disposed of. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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