

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10355 OF 2018

ABHIJEET ANANDRAO MUDGULWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Vibhute Sunil M.
AGP for Respondents No. 1 & 2 : Mr. P. S. Patil
Advocate for Respondents No.3 & 4 :
Mr. P. G. Rodge

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CORAM: S. V. GANGAPURWALA &
MANGESH S. PATIL, J.

DATE: 18th JULY, 2019

PER COURT:

1. The caste claim of the petitioner as belonging to Koli Mahadev, Scheduled Tribe is invalidated.

2. Mr. Vibhute, learned counsel for the petitioner submits that the real uncle of the petitioner namely Narayan is issued with the validity certificate of Koli Mahadev, Scheduled Tribe . The learned counsel submits that all the entries in the record of the father, uncle, paternal aunt, sister and brothers records caste

as Koli Mahadev. The learned counsel submits that the consistent entries of Koli Mahadev are recorded in the school record of the petitioner, his father, uncles and relatives. The real uncle is also issued with the validity certificate. The respondent be directed to issue the validity certificate to the petitioner. The petitioner has also proved the affinity test.

3. Mr. Patil, learned Additional Government Pleader submits that there is interpolation in the school record of the father of the petitioner. The same is the oldest school record of the year 1971. All other records are subsequent. The petitioner cannot claim benefit of the same. The petitioner also failed in the affinity test. The real uncle of the petitioner Narayan is granted validity on the basis of the validity given to some other relatives.

4. We have considered the submissions canvassed

by the learned counsel for respective parties.

5. It is not disputed that the real uncle of the petitioner namely Narayan is issued with the validity certificate of Koli Mahadev, Scheduled Tribe in the year 2007. The school record of the Narayan records caste as Koli Mahadev. All the school record in case of the petitioner, his uncle, the paternal aunt, sister and cousin brothers records caste as Koli Mahadev. There is one observation that in the school record of the father the word *Mahadev* is written in different ink. However, the same is on the basis of the certificate of the Headmaster. It appears that the vigilance has not verified original school record to come to the conclusion that the same is in different ink. The word *Mahadev* is in different ink. Considering the consistent entries in the school record of the petitioner and no contra evidence on record, so also the validity issued to the real uncle of the petitioner, we pass following order.

6. The impugned order is quashed and set aside. The respondent / scrutiny committee shall issue validity certificate to the petitioner of Koli Mahadev, Scheduled Tribe immediately. The validity certificate shall be subject to the decision that may be taken by the committee in case the validation proceedings in respect of the validity holders relied by the petitioner are reopened.

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

[MANGESH S. PATIL, J.] [S. V. GANGAPURWALA, J.]

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