

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

1003 WRIT PETITION NO.10798 OF 2018

**KRUSHNA LAXMAN KOREBAINWADAND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AD OTHERS**

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**Advocate for Petitioners : Venjane Tukaram M.
AGP for Respondents: P.S.Patil**

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

DATE : 17/07/2019

PER COURT :

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

2] Mr.Venjane, learned advocate for the petitioners submits that the father of the petitioners is issued with the validity certificate of Koli Mahadev (S.T.) Three sons of the real uncles of the petitioners viz. Narayan s/o Shankar, Sainath S/o Shankar and Tukaram s/o Parasram, so also two cousin uncles of the petitioners Venkati Digambar and Sainath Digambar have been issued with validity certificates of Koli Mahadev (S.T.). The learned counsel submits that the school record of the petitioners, their father, grand father consistently record caste as Koli Mahadev. The committee has not considered the validity certificate in its correct perspective. According to the learned counsel the respondents are relying upon some records of the persons who are not related to the petitioners.

3] Mr.Patil, learned Additional Government Pleader submits that the petitioners' father is issued with the validity certificate on the basis of the validity given to one Narayan s/o Shankar i.e. the nephew of the father of the petitioners. Narayan has been given validity on the basis of the validity issued to one Venkati s/o Digambar. In fact Digambar made statement that he does not have any brothers and sisters. In view of that, it cannot be said that the petitioners have any relation with any branch of Digambar. The school record of close relatives of the petitioners is also interpolated and the word "Mahadev" is added subsequently. The petitioners have failed in the affinity test. The committee has issued show cause notice to the validity holders whose validity is relied by the petitioners.

4] We have considered the submissions. It is not disputed that the father of the petitioners is issued with the validity certificate of Koli Mahadev (S.T.). It is also not disputed that 3 sons of 2 real uncles of the petitioners are issued with validity certificates of Koli Mahadev (S.T.).

5] Venkati Digambar has filed an affidavit stating that the petitioners are related to him and the relationship is mentioned. From the 7/12 extracts produced on record it appears that Digambar Hari, Vitthal are brothers.

6] The school record of the petitioners, their father and grand father consistently records caste as Koli Mahadev. The respondent has placed reliance upon the factum of the relationship between the petitioners branch and Digambar. Prima facie considering the 7/12 extracts, it appears that Digambar had brothers.

7] Considering the aforesaid aspects, all the validity certificates being issued to the petitioners' father and real uncle's sons as referred to above and the entries consistently appearing in the school record of the petitioners, their father and grand father as Koli Mahadev, we are inclined to direct issuance of validity to the petitioners subject to the decision of proceedings that are reopened in respect of the validities relied by the petitioners

8] In light of the above, impugned order is quashed and set aside. The respondent committee shall issue validity certificates to the petitioners of Koli Mahadev (S.T.) immediately. The same would be subject to the decision that would be taken by the committee in the proceedings that are sought to be reopened of the validity holders relied by the petitioners.

9] Writ Petition is disposed of. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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