

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 957 OF 2019

MRUGNAYANA BABU GAJEWAD
VERSUS
DIRECTOR OF MEDICAL EDUCATION AND RESEARCH CET
CELL AND OTHERS

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Advocate for Petitioner : Mr. Phatale Sagar S
AGP for Respondents / State : Mr. K. N. Lokhande
Advocate for Respondent No. 2 :
Mr. M. D. Narwadkar
Advocate for Respondent No. 4 : Mr. S. V. Natu

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

DATE: 03rd JULY, 2019

PER COURT:

1. The caste claim of the petitioner as Koli Mahadev, Scheduled Tribe is invalidated, aggrieved thereby the present petition.

2. Mr. Phatale, learned counsel for the petitioner submits that the father of the petitioner is issued with the validity certificate of Koli Mahadev, Scheduled Tribe in the year 2008. The real uncle of the petitioner Suresh is issued

with the validity certificate of Koli Mahadev, Scheduled Tribe in the year 2007. The real paternal aunt of the petitioner namely Godavari is issued with the validity certificate of Koli Mahadev, Scheduled Tribe in the year 2012.

3. The learned counsel submits that the Birth and Death Register of the grandfather of the petitioner recorded the date of birth as 20.08.1952 and the caste at that time is recorded as Mahadev Koli. The learned counsel submits that the record of the father of the petitioner, the petitioner consistently records caste as Mahadev Koli. The said aspect has not been considered properly. One isolated entry is sought to be relied in respect of the entry of the grandfather of Koli. The learned counsel relies on the judgment of **Apoorva D/o. Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee and others** reported in **2010(6) Mh. L. J. 401**. The learned counsel further submits that affinity test is not the litmus test. It is only a corroborative

piece of evidence. The Apex Court in case of **Anand Vs. The Committee for Scrutiny and Verification of Tribe Claim and others** reported in (2012) 1 SCC 113.

4. The learned A.G.P. submits that the validity in favour of the father, real uncle and real paternal aunt is issued, as the document recording caste as Koli of the grandfather of the petitioner was not produced, the same was suppressed. According to the learned counsel, the school record of the cousin uncle and the cousin aunt of the petitioner's records caste as Koli. The said aspect has been considered by the committee. The learned A.G.P. further submits that the petitioner could not prove the affinity test also. The committee has not committed any error while passing the impugned order.

5. We have considered the submission, so also, we have gone through the judgment and record.

6. It is a matter of record that the school

record of the petitioner records caste as Koli Mahadev. The school record of the father of the petitioner Babu of the year 1980 records caste as Mahadevd Koli, so also, another school record of the year 1985 records caste as Mahadev Koli. The service book of the father of the petitioner records caste as Mahadev Koli. The school record of one uncle Suresh of the year 1982 records caste as Mahadev Koli. The school record of the year 1983 of paternal aunt Godavari records caste as Mahadev Koli. The Birth and Death Register of the grandfather of the petitioner wherein the date of birth is recorded as 20.08.1952 and in the said record the caste is recorded as Mahadev Koli. The committee has raised suspicion over the said document only on the ground that in Birth and Death Register the caste is normally not recorded, however in the said certificate produced there is a column of caste also. There appears to be one contra evidence in respect of his grandfather of the year 1948 wherein caste is shown to have been

recorded as Koli as observed by the committee and in respect of cousin aunt and cousin uncle. The Birth and Death Register also records caste as Mahadev Koli. The school record of the father of the petitioner, the real uncle of the petitioner and the petitioner also records caste as Mahadev Koli.

7. The validities are issued to the father of the petitioner, the real paternal uncle and the real paternal aunt of the petitioner.

8. Considering all the aforesaid aspects of the matter, the impugned order is quashed and set aside. The respondent / committee shall issue validity certificate to the petitioner of Koli Mahadev, Scheduled Tribe within a period of three (03) days. In case, the validation proceedings of the father, paternal uncle and paternal aunt are reopened and some adverse orders are passed, then the committee may also take further decision with regard to the validity issued to the petitioner.

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

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

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