

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

**970 WRIT PETITION NO. 8141 OF 2020
WITH
CA/8149/2020 IN WP/8141/2020**

**DASHRATH MADHAV BOINWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner: Mr. S. R. Barlinge h/f.
Mr. Ganesh R Jadhav
AGP for Respondents No. 1 & 2: Mr. K. N. Lokhande
Advocate for Respondent No.3: Mr. M. D. Narwadkar
Advocate for Intervenor:
Mr. T. M. Venjane h/f Mr. P. R. Gaikwad

...

**CORAM: S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE: 11th DECEMBER, 2020

PER COURT:

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

2. Mr. Barlinge, learned Counsel for the petitioner submits that the father of the petitioner is issued with the validity certificate of Koli Mahadev, Scheduled Tribe. The vigilance was conducted and all the entries relied by the petitioner in the present matter were subject matter of scrutiny in the father's proceeding. Not

a single entry relied in the present matter was suppressed in father's proceeding. During the father's proceeding, the vigilance did not find any interpolation as tried to be suggested by the committee in the present matter.

3. The learned A.G.P. submits that the petitioner relies on the validity of Dashrath Maroti Boinwad grandfather of the present petitioner. His entry is shown at Serial No. 108. At that Serial No. 108 entry of one Jayshree appears. In the school entry of the petitioner's real paternal aunt; the word *Mahadev* appears to be written subsequently and in a different ink. According to the learned A.G.P. the petitioner has also failed in the affinity test.

4. The learned Counsel for the intervenor supports the arguments of the learned A.G.P.

5. It is not disputed that the father of the petitioner is issued with the validity certificate of Koli Mahadev, Scheduled Tribe. The entry of Dashrath Maroti Boinwad of the year-1949 i.e. the

grandfather of the petitioner, the school entry of Janabai of the year-1970, the school entry of Shahubai of the year-1976 and that of the petitioner's father were all considered by the vigilance at the time of validation proceeding of the father of the petitioner and the claim was validated.

6. It appears that show cause notice is issued to the father of the petitioner. The affinity test is not a litmus test as held in the case of **Anand Katole Vs. Committee for Scrutiny and Verification of Tribe Claims and others** reported in 2011 (6) Mh. L. J. (SC) 919.

7. Considering the above, we pass the following order.

8. The impugned judgment is quashed and set aside. The committee shall issue validity certificate to the petitioner of Koli Mahadev, Scheduled Tribe immediately. The said validity certificate shall be subject to the decision that would be taken by the committee in the cases re-

opened of the validity holders relied by the petitioner.

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

10. In view of disposal of the writ petition, the civil application is also disposed of.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

marathe