

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

WRIT PETITION NO. 8151 OF 2020

Sushil Shivdas Totawar and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri S. R. Barlinge, Advocate h/f Shri Omgashad B. Boinwad,
Advocate for Petitioners.

Shri S. G. Karlekar, A.G.P. for Respondent Nos. 1 and 2.

Shri M. D. Narwadkar, Advocate for the Respondent No. 3.

Shri T. M. Venjane, Advocate for the Intervenor.

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

DATE : 17TH DECEMBER, 2020.

FINAL ORDER :

. The tribe claims of the petitioners as belonging to the 'Koli Mahadev' (Scheduled Tribe) are invalidated.

2. Mr. Barlinge, the learned advocate for petitioners submits that, the father of the petitioners is issued with the validity certificate of Koli Mahadev (S.T.). Two cousin uncles of the petitioners namely Vilas and Sanjiv are issued with the validity certificate of Koli Mahadev (S.T.). The learned counsel further submits that, before issuing validity certificate to Vilas, the vigilance is conducted. Even in the case of father of the petitioners all the documents were before the Committee. The learned counsel relies on the judgment of the Apex Court in a

case of **Apoorva Nichale Vs. State reported in 2010(6) Mh.L.J. 401** to show that, when the near relative is granted validity, the same would be of relevant fact.

2. Mr. Karlekar, the learned Assistant Government Pleader for the respondents/State submits that, the contra evidence is on record. Vilas was issued with the validity on the basis of validity issued in the case of maternal relative. The old census document of the petitioner's grandfather, cousin grandfather shows that the tribe is interpolated. The petitioner has failed in the affinity test. The Committee has considered the contra evidence on record, so also interpolation in various school record of the petitioner's father and uncle. The claims are rightly rejected.

3. We have considered the submissions canvassed by the learned counsel for the respective parties.

4. It is matter of record that, the father of the petitioner is issued with the validity certificate as belonging to Koli Mahadev (S.T.) on 01.01.2011. Two cousin uncles of the petitioner are also issued with the validity certificate of Koli Mahadev (S.T.). It is contended that, all those documents which now the Committee claims to be interpolated were subject matter of consideration when earlier validities were granted to the father of the petitioner and two cousin uncles of the petitioner. Even the old school record of Nagnath Maneappa Totawar of the year 1957 was before the Committee while granting validity to Vilas and

father of the petitioner. In the said proceedings, the vigilance did not find any interpolation in the said documents.

5. It appears that, show cause notice is issued to the validity holders relied by the petitioners.

6. In the light of the above, we pass the following order.

7. The impugned judgment is quashed and set aside. The Committee shall issue validity certificates to the petitioners as belonging to 'Koli Mahadev' (Scheduled Tribe) immediately. The said validity certificate shall be subject to the decision that would be taken by the committee in the proceedings reopened of the validity holders and relied by the petitioners.

8. In the light of the above, the writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/Dec. 20