

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

WRIT PETITION NO.8276 OF 2020

ANJALI D/O YASHWANT WATMARE ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND ORS. ..RESPONDENTS

...

Mr. Deepak D. Choudhari and Ramesh B. More,
Advocates for the Petitioner.

Mr. S. P. Tiwari, AGP for Respondents-State.

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

DATED : 21st DECEMBER, 2020.

PER COURT:-

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

2. The learned counsel submits that the father of the petitioner Yashwant is issued with the validity certificate of the "Koli Mahadev", Scheduled Tribe. The cousin paternal grandfather of the petitioner namely Sachin and Dattatraya are issued with the validity certificate of "Koli Mahadev", Scheduled Tribe. The vigilance was conducted before issuance of validity to Sachin. The contra entries which the committee referred to of Prabhakar, Vasant and Ramdas were subject matter of consideration while issuing validity certificate to Sachin. These aspects have not been considered by the Committee. The petitioner relied on the

judgment in case of **Apoorva D/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and Ors.** reported in 2010 (6) Mh.L.J. 401 to contend that if the relative has been issued with the validity certificate, the same is a relative fact.

3. The learned counsel further submits that affinity test is not a litmus test. Reliance is placed on the judgment of the Apex Court in a case of **Anand Vs. The Committee for Scrutiny Verification and Others** reported in (2012) 1 SCC 113.

4. The learned A.G.P. submits that the petitioner had suppressed the old entry in the school record of the grandfather of the petitioner Ramdas of the year 1959, wherein caste recorded is as 'Hindu Koli'. Sachin is issued with the validity on the basis of his maternal relatives. The show cause notices are issued to the father of the petitioner and cousin paternal grandfather of the petitioner Sachin and Dattatraya.

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

6. It is a fact that the father of the petitioner Yashwant is issued with the validity certificate of "Koli Mahadev", Scheduled Tribe.

The cousin paternal grandfather of the petitioner Sachin and Dattatraya are issued with the validity certificate of "Koli Mahadev", Scheduled Tribe. Vigilance was conducted and majority of entries referred herein were subject matter of consideration before Committee in case of Sachin S/o Bhanudas. The show cause notices are issued to the validity holders relied by the petitioner. In view of that, we pass the following order:-

ORDER

- A. The impugned order is quashed and set aside.
- B. The committee shall issue validity certificate to the petitioner of "Koli Mahadev", Scheduled Tribe.
- C. The said validity is subject to the decision that would be taken by the committee in the validation proceedings that would be reopened of the validity holders relied by the petitioner.
7. Writ Petition is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE