

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

915 WRIT PETITION NO.8185 OF 2020

SUJEET NAVNATH WAGWAD AND ANOTHER ..PETITIONERS

VERSUS

DIRECTOR OF MEDICAL EDUCATION AND RESEARCH CET CELL
AND OTHERS ..RESPONDENTS

...

Mr. Mahesh S. Deshmukh, Advocate for the
Petitioners.

Mr. K. N. Lokhande, AGP for Respondents-State.

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

DATED : 11th DECEMBER, 2020.

PER COURT:-

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

2. Mr. Deshmukh, learned counsel submits that the father of the petitioners namely Nawnath is issued with the validity certificate of "Koli Mahadev", Scheduled Tribe. The same was after conducting the vigilance. The entries of Nawnath, Gorakhnath which the committee in the instant matter considered as interpolation were subject matter of consideration before the committee in the validation proceeding of Nawnath. The committee and the vigilance did not find any interpolation in the same.

3. The learned further submits that all the documents consistently record the caste as "Koli Mahadev". There is not a single contra entry. The affinity test is not a litmus test. The learned counsel relies on the judgment in a case of **Anand Vs. Committee** reported in 2012 (1) SCC 113.

4. The learned A.G.P. submits that the word 'Mahadev' in the school entry of Nawnath and Gorakhnath is in a different ink and the entry seems to have been made from the T.C. book. The learned A.G.P. further submits that the petitioners also could not prove the affinity test. The interpolated entries were suppressed by the father of the petitioners. The Committee has rightly invalidated the tribe claim. The show cause notice is issued to the father of the petitioners as to why his validation proceeding could not be reopened.

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

6. It is a matter of record that the father of the petitioners is issued with the validity certificate of "Koli Mahadev", Scheduled Tribe. The vigilance in his case was conducted and the school entry of caste in the school record of Nawnath, Gorakhnath and Godavari were subject matter of consideration. The vigilance team has verified

these entries and submitted the report. The vigilance report in the case of father Nawnath nowhere suggest that the entries appeared to be interpolated.

7. The affinity test is not a litmus test as is observed by the Apex Court in a case of **Anand Vs. Committee** (supra).

8. The father of the petitioners is issued with the show cause notice.

9. In light of that, we pass the following order:

ORDER

A. The impugned judgment and order is quashed and set aside.

B. The committee shall issue validity certificate to the petitioners of "Koli Mahadev", Scheduled Tribe immediately.

C. The said validity is subject to the decision that would be taken by the committee in the validation proceedings that would be reopened in a case of father of petitioners.

10. Writ Petition is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE