

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8201 OF 2020

Vinaya D/o Vasant Kalambarkar

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr S.R. Barlinge, Advocate holding for
Mr O.B. Boinwad, Advocate for Petitioner
Mr P.S. Patil, Addl. G.P. for Respondent Nos. 1 and 2/State
Mr M.D. Narwadkar, Advocate for Respondent No. 3

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

DATE : 18th DECEMBER, 2020

PER COURT :

1. The caste claim of the petitioner as "Koli Mahadev" Scheduled Tribe is invalidated.

2. Mr Barlinge, the learned Counsel submits that the father of the petitioner Vasant is issued with the validity certificate of "Koli Mahadev" Scheduled Tribe. The real uncle of the petitioner Mohan is issued with the validity certificate of "Koli Mahadev" Scheduled Tribe. The cousin grandfather of the petitioner Dadarao is issued with the validity certificate of "Koli Mahadev" Scheduled Tribe. The vigilance was conducted before issuing validity certificate to the father and uncle of the petitioner. There are old documents. The oldest document is of the year 1947 showing caste recorded as "Koli Mahadev". The learned Counsel relies on the judgment of the Apex Court in the case of ***Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee reported in 2010 (6)***

Mh.L.J. 401. to contend that the validity granted to the near paternal relatives of the petitioner is a relevant factor.

3. Mr Patil, the learned Additional Government Pleader submits that the validity certificate issued to the petitioner's father, uncle and cousin grandfather of the petitioner is without scrutinizing the documents in a correct perspective. The contra entries verified by the Committee in the present case are not produced when validity was granted to the father, uncle and cousin grandfather of the petitioner. The petitioner has failed in the affinity test. The Committee has considered all the aspects of the matter.

4. It is a matter of record that the father of the petitioner, real paternal uncle of the petitioner namely, Mohan and cousin grandfather of the petitioner namely, Dadarao are issued with the validity certificate of the "Koli Mahadev" Scheduled Tribe. The vigilance was conducted before issuing validity certificate in favour of Vasant and Mohan. The extract of birth and death register of Ganpati shows the caste recorded as "Koli Mahadev". The Committee has observed that the Vigilance Cell has not found any such entries of caste in the birth and death register of Ganpati. However, the said register was also subject matter of consideration in validation proceedings of Vasant and Mohan. The vigilance Cell in the said case, did not find any suspicion about the entries of the caste of "Koli Mahadev" in the said birth and death register. The school entries of Dadaji Raoji, Vasant and Mohan were subject matter of consideration.

5. Considering the above, we pass the following order :-

ORDER

- (i) The impugned judgment is quashed and set aside.
 - (ii) The Committee shall issue validity certificate to the petitioner of "Koli Mahadev" Scheduled Tribe.
 - (iii) The said validity certificate would be subject to the decision that would be taken by the Committee in the proceedings re-opened of the validity holders relied by the petitioner.
6. The writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S.V. GANGAPURWALA, J.]

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