

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8432 OF 2020

Aishwarya D/o Keshav Madiboyane

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr S.M. Vibhute, Advocate holding for
Mr M.C. Swami, Advocate for Petitioner
Mr P.S. Patil, Advocate for Respondents

**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. The learned Counsel submits that father of the petitioner is issued with the validity certificate of "Koli Mahadev" Scheduled Tribe. The real uncle of the petitioner - Madhav S/o Nagnath Madiboyane is issued with the validity certificate. Kisan S/o Masaji Madiboyane, the cousin grandfather of the petitioner is issued with the validity certificate. The detail vigilance was conducted while validity certificate was granted to Kisan. The contra entries sought to be relied in the present case were also subject matter of consideration when validity was granted to Kisan. In the entries which the Committee claims that they are interpolated, were considered by the Vigilance and Committee in validation proceedings of Kisan and they did not find interpolation. According to the petitioner, the

affinity test is not a litmus test. The learned Counsel placed reliance on the Judgment in the case of **Anand Vs. The Committee for Scrutiny Verification and others reported in (2012) 1 SCC 113**. The petitioner has also placed reliance on the judgment in the case of **Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 and others** reported in **2010 (6) Mh.L.J. 401** to contend that when the father and close relatives are granted validity certificate, the same is relevant fact.

3. The learned Assistant Government Pleader submits that the petitioner has suppressed the invalidation of the caste claim of Sanjay S/o Gopal Madiboyane and Vijay S/o Gopal Madiboyane. The said invalidation was also not brought to the notice of the Committee while granting validity in the name of father of the petitioner, uncle of the petitioner and cousin grandfather of the petitioner.

4. All the entries relied by the petitioner are interpolated as per the vigilance report. The petitioner has failed in the affinity test also.

5. We have considered the submissions.

6. It is a matter of record that the father of the petitioner Keshav has been issued with the validity certificate of "Koli Mahadev" Scheduled Tribe. The real uncle of the petitioner Madhav is also issued with the validity certificate of "Koli Mahadev" Scheduled Tribe. The cousin grand father of the petitioner Kisan S/o Masnaji is also issued with the validity certificate of "Koli Mahadev".

7. It appears that the sons of the cousin grandfather of the petitioner Gopal namely, Sanjay and Vijay have also applied for validity certificate. The same has been negated by the Committee. In their case, the Committee has observed all the documents relied are of recent origin and they could not prove the affinity test. In case of Kisan, a detail vigilance has been conducted and the entries herein were also subject matter of consideration at the time of vigilance. The Vigilance Cell in that case did not find interpolation.

8. Considering the Judgment in the case of ***Apoorva*** (supra) and ***Anand*** (supra), we pass the following order :-

ORDER

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

[SHRIKANT D. KULKARNI, J.]

[S.V. GANGAPURWALA, J.]

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