

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

921 WRIT PETITION NO.4696 OF 2021

**DHANASHRI SUNIL SONAWANE
VERSUS
THE STATE OF MAHARASHTRA THR ITS SECRETARY AND ANOTHER**

Advocate for Petitioner : Mr S R Barlinge
AGP for Respondents State: Mr U. S. Badakh

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

DATE : 17th March, 2021.

ORDER:

1. Mr. Barlinge, the learned counsel submits that caste claim of the petitioner as Tokre Koli Scheduled Tribe is invalidated. The learned counsel submits that real uncle of the petitioner is issued with validity certificate. Son and daughters of the real uncle of the petitioner namely Mrunalini, Harshal and Himani were refused validity certificates of Tokre Koli Scheduled Tribe by the Committee. They filed writ petition bearing No. 3140 of 2016 before this Court. This Court, under judgment and order dated 21.11.2017, allowed writ petition No. 3140/2016 and directed the Committee to issue validity certificates to them. All the contra evidence which the committee referred in the present case were the subject matter of consideration before this Court in the said writ petition.

2. The learned A.G.P. submits that old record shows that the petitioner and his ancestors belong to Koli. Old record of the grandfather of the petitioner records caste as Koli. Real uncle of the petitioner namely Pradip Sonawane was issued with validity certificate on the basis of validity certificate of another person who was not at all related to him. According to

the learned AGP, all the relevant aspects are considered by the committee while invalidating the caste claim of the petitioner. The petitioner also failed to prove the affinity test.

3. Relationship of the petitioner with Pradip Tryambak Sonawane, real paternal uncle is not disputed. It is also not disputed Mrunalini, Harshal and Himani are the son and daughters of real uncle of the petitioner namely Pradip Sonawane. Caste claims of the son and daughters of Pradip Sonawane were invalidated by the Committee. The same was subject matter of consideration before this Court in writ petition No. 3140/2016. While allowing the said writ petition under judgment and order dated 20.11.202017, this Court observed thus:

"7. The impugned judgment records that the Committee has gone through the record of the validation proceedings of the tribe claim of the petitioners' father. It would appear that as per observations of the Committee in the impugned judgment, these documents were subject matter of the proceedings before the Committee, Nashik. In the impugned judgment, it is observed that inspite of the fact that there were entries of Hindu Koli in the pre-independence documents, still the validity was given to the father of the petitioners on the basis of validity given to the cousin grand father and cousin brother of the petitioners' father.

8. Certainly, one Committee can not enter into the rigmarole of finding fault of the other Committee. Of-course if certain documents were suppressed while getting the validity in case of near relative, the said aspect would be certainly considered by the Committee deciding the validation proceedings. However, in the present case, all these documents which are relied in the validation proceedings of the

petitioners were subject matter of validation proceedings of the father of the petitioners also.

9. It would appear that the document Gao-namuna No.1 of the grand father of the petitioners records caste as Hindu Koli. At the same time, the service book of the grand-father of the petitioners record caste as Tokre-Koli. School record of the father of the petitioners records caste as Hindu Magaslela and Hindu backward class, meaning thereby that he belongs to a backward class. All the School record of the petitioners record caste as Tokre-Koli. Hindu Magaslela would only mean that he belongs to backward class and no particular caste is mentioned. All this record was considered while granting validity in favour of the petitioners father. The cousin grand father of the petitioners' father is issued with the validity certificate, so also the cousin brother of the petitioners' father is issued with the validity certificate of Tokre-Koli - Scheduled Tribe as is observed in para 7 of the impugned judgment.

10. Even the service book of the real grand father of the petitioners records caste as Tokre-Koli. The same is also old document. The said entry in the service book of Tokre-Koli - Scheduled Tribe in case of grand father of the petitioners is also an old entry. Isolated entry as against the various entries of Tokre-Koli -Scheduled Tribe may not be sufficient to invalidate the tribe claim."

4. The validity certificate issued in favour of the petitioner's paternal relative is a relevant fact. Reliance can be placed on the judgment of Division Bench of this Court in case of **Apoorva Nichale Vs. Divisional Caste Scrutiny Committee** reported in **(2010) 6 Mh.L.J. 401**. Moreover, all these contra evidence were considered by this Court while allowing the writ petition filed by the son and daughters of real uncle of the petitioner.

5. In view of the above, the impugned order qua is quashed and set

aside.

6. The Committee shall issue validity certificate to the petitioner of 'Tokre Koli' Scheduled tribe immediately.

7. Writ petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC