

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

924 WRIT PETITION NO.356 OF 2021

UJWAL VILAS DEORAJ
VERSUS
THE STATE OF MAHARASHTRA THR ITS SECRETARY AND OTHERS

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Advocate for Petitioner :Mr S R Barlinge
AGP for Respondents State: Mrs P. V. Diggikar
Advocate for Respondent No.4 : Mr. M.D. Narwadkar

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

DATE : 13th January, 2021

ORDER:

1. Caste claim of the petitioner as Tokre Koli Scheduled tribe is invalidated.

2. Mr. Barlinge, the learned counsel submits that real uncle of the petitioner namely Kishor Tarachand Deoraj is issued with the validity certificate of Tokre Koli Scheduled Tribe by the Scrutiny Committee. Another paternal cousin of the petitioner namely Chhagan s/o Sitaram Deoraj had also applied for the validity certificate. The same was negatived by the Committee. Chhagan Sitaram Deoraj filed Writ petition before this Court bearing No. 2741 of 1991. The Division Bench of this Court, under judgment and order dated 31st March, 1998 allowed the said writ petition and directed the committee to issue validity certificate to Chhagan Sitaram Deoraj of Tokre Koli Schedule Tribe. The learned counsel submits that the documents on record clearly establish that the petitioner belongs to Tokre Koli Scheduled Tribe. The learned counsel further submits that affinity test is not a litmus test. The learned counsel

relied on the judgment of the Apex Court in the case of **Anand v. Committee for Scrutiny and Verification of Tribe Claims**, reported in **2011(6) Mh.L.J. (S.C.) 919**. The learned counsel also relies on the judgment in the case of **Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee**, reported in **2010 (6) Mh.LJ 401** to submit that validity issued to the near paternal relative is a relevant fact.

3. Learned A.G.P. submits the petitioner had not proved the relationship with Chhagan. The genealogy presented by the petitioner also did not disclose the relationship of the petitioner with Chhagan. The petitioner has failed in the affinity test. The petitioner also does not come from the region where the Tokre Koli Scheduled Tribe persons normally used to reside.

4. We have considered the submissions.

5. It is a matter of record that Chhagan Sitaram Deoraj had applied for issuance of validity certificate of Tokre Koli Scheduled Tribe. The same was invalidated. He filed bearing Writ Petition No. 2741 of 1991 before this Court. The Division Bench of this Court, under judgment and order dated 31st March, 1998 allowed the said writ petition and directed the committee to issue validity certificate to Chhagan Sitaram Deoraj of Tokre Koli Schedule Tribe. The documents relied by Chhagan also included the school record of the father of the petitioner namely Vilas Tarachand Deoraj. The petitioner has also produced the genealogy as given before the vigilance wherein Chhagan is shown to be the paternal relative of the

petitioner. In the year 1991 also, Chhagan has shown father of present petitioner to be his relative by relying upon the document i.e. the school leaving certificate of the father of the petitioner.

6. This court has already considered the case for issuance of validity certificate to the paternal cousin of the petitioner in Writ Petition No. 2741 of 1991. The real uncle of the petitioner is also issued with the validity certificate.

7. In light of the above and the judgment of this Court in the case of Chhagan s/o Sitaram Deoram, dated 31st March, 1998 in Writ Petition No. 2741 of 1991, we set aside the impugned judgment of the committee.

8. The Committee shall issue validity certificate to the petitioner of Tokre Koli Scheduled tribe.

9. In case the judgment of this Court in Writ Petition No. 2741 of 1991 dated 31st March, 1998 is reviewed and or the claim of the real uncle of the petitioner is subsequently invalidated after reopening of the proceeding, then the the committee may take appropriate steps as against the petitioner.

10. Writ petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC