

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

WRIT PETITION NO. 655 OF 2021

Akshay S/o Avinash Shanime ... Petitioner.

Versus

The State of Maharashtra
and another ... Respondents.

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Mr. Sunil M. Vibhute, Advocate for the Petitioner.
Mr. S.K. Tambe, A.G.P. for Respondent Nos. 1 and 2.
Mr. S.G. Karlekar, Advocate for Respondent No.3.

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

DATE : 15th JANUARY, 2021

PER COURT:-

1. The caste claim of the petitioner as “Koli Mahadev” Scheduled Tribe is invalidated.
2. The learned counsel for the petitioner submits that the cousin grandfather of the petitioner namely Vijaykumar is issued with the validity certificate of “Koli Mahadev” Scheduled Tribe. Initially, the committee had invalidated the caste claim of Vijaykumar. He filed writ petition before this Court. This Court remanded back the matter to the scrutiny committee. After remanding the matter, the scrutiny committee examined the documents once again so also vigilance

report and granted validity certificate to Vijaykumar. The learned counsel further submits that the real paternal uncle of the petitioner namely Kulbhushan is also issued with the validity certificate of “Koli Mahadev” Scheduled Tribe. The contra entries, which the committee contends as adverse were subject matter of the consideration while granting the validity certificate to Vijaykumar. The learned counsel submits that there is no suppression of the facts. The learned counsel has placed reliance on the judgment in case of in 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 the validity certificate issued to the near relative is relevant fact. The learned counsel also relied upon the judgment of the Apex Court in case of ***Anand Vs. Committee for Scrutiny and Verification of Tribe claim and ors.*** reported in ***(2012) 1 SCC 113*** to contend that the affinity test is not a litmus text.

3. Mr. Tambe, learned AGP submits that the petitioner failed to prove the affinity test. There are documents showing contra entries of “Koli”. The committee has considered the said aspect in its correct perspective and has arrived at the correct conclusion. The show cause notices are issued to the Vijaykumar and the real paternal uncle Kulbhushan as to why their proceedings shall not be re-opened.

4. We have considered the submissions.
5. The documents relied by the petitioner were the subject matter before the committee while granting the validity certificate to the cousin grandfather of the petitioner namely Vijaykumar. The real paternal uncle namely Kulbhushan is also issued with the validity certificate by the committee based on the validity of the Vijaykumar. The Division Bench in case of *Apoorva D/o Vinay Nichale* (supra) has observed that the validity issued in favour of the nearest relative is to be considered. The show cause notices are issued to the Vijaykumar and Kulbhushan and other validity holders.
6. In the light of the above, we passe the following order.
7. The committee shall issue validity certificate to the petitioner of “Koli Mahadev” (Scheduled Tribe). The said validity certificate shall be subject to the decision that would be taken by committee in the proceedings re-opened of the validity holders relied by the petitioner.
8. The writ petition is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

S.P. Rane