

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

**1026 WRIT PETITION NO.1766 OF 2021
PRASAD RAJENDRA DAMALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners:

Mr. S. R. Barlinge h/f. Mr. Jadhav Ganesh R.
AGP for Respondents/State: Mr. P. K. Lakhotiya

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

DATE: 03rd FEBRUARY, 2021

PER COURT:

1. The tribe claims of the petitioners as Koli Mahadev, Scheduled Tribe are invalidated.

2. Mr. Barlinge, learned Counsel for the Petitioners submits that the real sister of petitioner no. 1 is issued with the validity certificate of Koli Mahadev, Scheduled Tribe. The pre-constitutional document of the year – 1943, in the name of Changdev great grandfather of the petitioners records caste as Koli Mahadev. According to the learned Counsel, the said document will have precedence. The said document is also filed in the case of Shraddha, in whose favour validity was granted. The learned Counsel

submits that the document of the year – 1933 i.e. the birth extract of the son of Changu recording caste as Koli, as observed by the vigilance, was never considered by the committee while delivering the judgment. The learned Counsel submits that the other documents relied by the committee are post-constitutional documents. They will not have much evidential value as compared to the pre-constitutional documents.

3. Mr. Lakhotiya, the learned A.G.P. submits that the oldest document is of the year – 1933, wherein the caste of the son of Changu is recorded as Koli. There are numerous documents i.e. the school record of the petitioners grandfather, cousin grandfather wherein the caste is recorded as Koli. Those documents are of the year 1954 to 1962. The validity was granted to Shraddha without conducting the vigilance and on the basis of validity given in favour of maternal relatives.

4. We have considered the submissions canvassed by the learned Counsel for the petitioners and the learned A.G.P. for the respondents-State.

5. On perusing the vigilance report, it is found that the petitioners have nowhere denied the documents wherein caste is recorded as Hindu Koli in the school records of Madhav Fakira, Lahanu Fakira, Jijabai Fakira, Eknath Baburao, Mohan Kashinath, Kum. Suman Nivrutti. These documents are of the year 1954 to 1962. It also appears that the petitioners had not given any reply to the document that was considered by the vigilance i.e. the document of the year – 1933 i.e. the birth extract of the son of Changu, wherein the caste is recorded as Koli. It appears that, in the judgment said document is not referred to.

6. At this stage, Mr. Barlinge, the learned Counsel submits that the petitioners be given an opportunity to controvert the documents relied by the respondents.

7. Considering that the matter pertains to the social status of the petitioners, we are inclined to grant one more opportunity to the petitioners.

8. In the result, we pass the following order.

9. The impugned order is set aside. The matter is relegated before the Scrutiny Committee. The petitioners may appear before the Scrutiny Committee on 15.02.2021. The petitioners may file additional say to the vigilance. The petitioners, if they so desire, may file additional documents on which they place their reliance. The Scrutiny Committee shall consider the additional say filed by the petitioners, the additional documents and may take decision on it's own merits, in accordance with law, preferably within three (03) months from the date of appearance of the petitioners.

10. Writ Petition is accordingly disposed of. No costs.