

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

WRIT PETITION NO. 1341 OF 2021

1. Pratik s/o Santosh Thombre
Age 17 years, Occu.Education
Minor under guardianship of
his father Santosh Eknath Thombre
Age 41 years, Occu. Service,
R/o Shivajinagar, Taluka Nagar,
District Ahmednagar
2. Avantika d/o Machindra Thombre
Age 17 years, Occu. Education,
Minor under guardianship of
her father Machindra Gajanan Thombre,
Age 46 years, Occu. Labourer,
R/o Sale Tax Colony, Pipeline road,
Satedi, Ahmednagar

..Petitioners

Versus

. The State of Maharashtra and ors.

..Respondents

Mr D.D. Choudhari, Advocate for petitioners
Mr P.S. Patil, Addl.G.P. for respondents no.1 to 3
Mr M.D. Narwadkar, Advocate for respondent no.4

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

DATE : 30th January 2021

PER COURT :

1. The present petitioners no.1 and 2 are paternal cousins. They had applied for issuance of caste certificates as Koli Mahadev - Scheduled Tribe and the same is invalidated.

2. Mr Choudhari, learned Advocate for the petitioners submits that the real uncle of the petitioners Balkrushna is issued with the validity certificate. The father of petitioner no.1 Santosh is also issued with the validity certificate. The other paternal cousins namely Manjabapu, Akash, Shruti, Vrushali, Gorakh, Vijay, Manisha, Aadi, Shivani and Sarla are issued with the

validity certificates of Koli Mahadev - Scheduled Tribe. The vigilance was conducted before issuance of validity certificates to Shivani, Balkrushna and others. The school entry of Gajanan Laxman Thombre of 9.9.1955 was subject matter of consideration by the vigilance in validation proceeding of Shivani. The vigilance found that in the school entry of Gajanan Laxman Thombre, his caste is recorded as Hindu Mahadev Koli. The learned Counsel relies on the judgment of this Court 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**.

3. Mr Patil, learned Addl.Government Pleader submits that the petitioners did not bring it to the notice of the Committee that when the petitioners had filed the proceedings for validation. The claim for validation of their father was pending, so also that of other relatives. The said fact was suppressed. While granting validity to the validity holders relied by the petitioners, the contra entry in the school of Jagannath Laxman and Chabubai Laxman were suppressed. The vigilance has also found that in the school record of Gajanan Laxman, the entry is Hindu Koli and not Mahadev Koli. The Committee has considered all these aspects and has rightly negated the claim of the petitioners. The petitioners have also failed in the affinity test. The contra entries of Hindu Koli and Hindu Pan Koli in the school record of the petitioners' cousin grandfather and cousin grand aunt falsifies the case of the petitioners.

4. We have considered the submissions.

5. It is not a matter of dispute that the paternal relatives of the petitioners, as referred to above are issued with the validity certificates of Koli Mahadev - Scheduled Tribe. The vigilance is conducted before issuing

validity to many of them. In case of Shivani, the vigilance was conducted. The school entry of Gajanan Laxman Thombre of 1955 was also subject matter of consideration. The vigilance in the case of Shivani found school entry in the school record of Gajanan Laxman Thombre of 1955, in the caste column, caste is recorded as Hindu Mahadev Koli, whereas the vigilance in the present case has found entry only to be Hindu Koli. There will be two vigilance report contrary to each other.

6. Considering that the petitioners' father, real paternal uncle and many other paternal relatives are issued with the validity certificates, after conducting vigilance and many of the entries referred to above are also subject matter of consideration, we pass the following order:

7. The Committee shall issue validity certificates to the petitioners of Koli Mahadev - Scheduled Tribe immediately.

8. The said validity certificates would be subject to the decision that would be taken by the Committee in the proceedings re-opened of the validity holders relied by the petitioners.

9. Writ Petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

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