

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

1021 WRIT PETITION NO. 1353 OF 2021

**GANESH DNYANOBA BOYANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner: Mr. Yeramwar Sushant C.
AGP for Respondents/State: Mr. P. S. Patil

...

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

DATE: 22nd JANUARY, 2021

PER COURT:

1. The caste claim of the petitioner as belonging to Koli Mahadev, Scheduled Tribe is invalidated.

2. Amongst the other grounds, Mr. Yeramwar, the learned Counsel submits that the real brother of the petitioner Mahesh S/o. Dnyanoba had earlier applied for issuance of validity certificate of Koli Mahadev, Scheduled Tribe, the same was invalidated. He filed the writ petition bearing no. 9364 of 2019 before the Principal Seat. The same is allowed under order dated 26.08.2019.

3. We have also heard the learned A.G.P. for the respondents.

4. The learned A.G.P. does not dispute the relationship of the present petitioner with Mahesh S/o. Dnyanoba as the real brother.

5. The Division Bench of this Court under order dated 26.08.2019, passed in writ petition bearing no. 9364 of 2019 filed by the real brother of the petitioner observed thus-

"6. The learned Government Pleader submits that since some interpolation is noticed in the school record of Petitioner's father Dnyanoba Vaijinath Boyane and brother Navnath Dnyanoba Boyane, the Committee has issued show cause notices to them. We find that the Committee has not recorded specific findings as regard possibility of some interpolation. Be that as it may, we have noticed that the Petitioner's father Dnyanoba Vaijinath Boyane and brother Navnath Dnyanoba Boyane have already been granted caste validity certificates. Thus in our considered view, the reason assigned by the Committee for rejection of the Petitioner's claim cannot be sustained as it runs contrary to the view taken by the Division Bench of this Court in the case of Apoorva Vinay Nichale (supra).

7. In the circumstances, in the light of the law laid down by the judgments in Apoorva Nichale, Anand vs. Committee and Raju Ramsing

Vasave (supra), the Petitioner is entitled to be granted caste validity certificate forthwith. However, the issuance of the certificate shall be subject to the outcome of the show cause notices which have been issued against the father Dnyanoba Vaijinath Boyane and brother Navnath Dnyanoba Boyane by the Committee as the caste validity certificates issued are found to be based on interpolation/adverse entries."

6. In light of the above, we follow the same course.

7. The impugned order is quashed and set aside.

8. The Committee shall issue validity certificate to the petitioner of Koli Mahadev, Scheduled Tribe immediately. The said certificate shall be subject to the decision that would be taken by the committee in the proceedings re-opened of the validity holders relied by the petitioner.

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

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

marathe