

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

WRIT PETITION NO. 1770 OF 2021

1. Hariom S/o Sanjay Vibhute
2. Saiom S/o Sanjay Vibhute ... Petitioners.

Versus

The State of Maharashtra
and others ... Respondents.

....

Mr. Sunil M. Vibhute, Advocate for the Petitioners.
Mr. P.K. Lakhotiya, A.G.P. for Respondents / State.

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

DATE : 30th JANUARY, 2021

PER COURT:-

1. The caste claim of the petitioners as “Koli Mahadev” Scheduled Tribe is invalidated.
2. Mr. Vibhute, learned counsel for the petitioners submits that the father of the petitioners, real paternal uncle and real paternal aunt of the petitioners are issued with the validity certificates of “Koli Mahadev” Scheduled Tribe. The validity certificate issued to the petitioners’ father namely Sanjay was challenged by the employer before this Court by filing writ petition No.154 of 2008. This Court under order dated 10.09.2008 dismissed the writ petition, holding

that the judgment of the committee granting validity does not suffer from any error of law apparent on the fact of the record.

3. The learned counsel for the petitioners has placed his reliance on the judgment of the Division Bench of this Court in ***Apporva D/o. Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others***, reported in **2010(6)** and submits that the validity issued in favour of the paternal relatives is a relevant fact. The learned counsel submits that the affinity is not a litmus test. The learned counsel placed his reliance on the judgment of the Apex Court in a case of ***Anand Vs. Committee for Scrutiny and Verification of Tribe Claim and others*** reported in **2012(1) SCC 113**.

4. The learned A.G.P. submits that the petitioners have suppressed the branch of Yashwant. In the family of Yashwant 4-5 claims are invalidated. By suppressing the said fact, the petitioners' father, real paternal uncle and real paternal aunt of the petitioners obtained the validity. The learned A.G.P. further submits that in some of the cases of the family members of the petitioners whose claims are invalidated filed writ petitions before this Court, a statement was made on their behalf that the petitioners would not claim benefit of reservation. The petitioners failed in the affinity test.

5. We have considered the submissions.

6. It is the matter of record that the father of the petitioners, real paternal uncle and real paternal aunt of the petitioners are issued with the validity certificates. The validity certificate issued to the father of the petitioner was challenged by the employer by filing the writ petition No.154 of 2008. This Court dismissed the writ petition under judgment and order dated 10.09.2008 holding that the judgment of the committee granting validity does not suffer from any error of law apparent on the fact of the record. It also further appears that the show cause notices are issued to the validity holders relied by the petitioner.

7. In the light of that, we pass the following order.

8. The impugned order is quashed and set aside. The scrutiny committee shall issue validity certificate to the petitioners of “Koli Mahadev” Scheduled Tribe immediately.

9. The said validity certificate 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.

(**SHRIKANT D. KULKARNI**)
JUDGE

S.P. Rane

(**S.V. GANGAPURWALA**)
JUDGE