

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2434 OF 2021

Swamini Sureshrao Chintalwad

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr P.V. Jadhavar, Advocate for Petitioner
Mr S.K. Tambe, A.G.P. for Respondent-State

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

DATE : 8th FEBRUARY, 2021

PER COURT :

1. The caste claim of the petitioner as belonging to "Koli Malhar", Scheduled Tribe is invalidated.
2. Amongsts other submissions, one of the submissions made by the learned counsel for the petitioner is that the real uncle's daughter of the petitioner namely, Hindavi d/o Shivaji Chintalwad had also applied for issuance of validity certificate of "Koli Malhar" Scheduled Tribe. Her tribe claim was invalidated. She filed writ petition bearing No. 9203/2019 before the Principal Seat. The Division Bench at the Principal Seat under the judgment and order dated August 21, 2019 allowed the said writ petition and directed the Committee to issue validity certificate to Hindavi.
3. Upon perusing the judgment, the learned Assistant Government pleader accepts relationship of the present petitioner with Hindavi d/o Shivaji Chintalwad.

4. The Division Bench under order dated August 21, 2019 in writ petition No. 9203 of 2019 filed by Hindavi observed thus -

6. The learned Government Pleader submits that since some interpolation is noticed in the school record of Satish and Mukesh, the Committee has issued a 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 Satish and Mukesh Chintalwad 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 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 Satish and Mukesh by the Committee as the caste validity certificate issued to Satish and Mukesh are found to be based on interpolation/adverse entries.

5. In light of the above, we pass the following order :-

ORDER

(i) The Committee shall issue validity certificate to the petitioner of "Koli Malhar" Scheduled Tribe immediately.

- (ii) The said validity 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.

6. Writ Petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S.V. GANGAPURWALA, J.]

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