

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

1012 WRIT PETITION NO.4681 OF 2021

SAILI SANTOSH KATAMWAD THRRER NATURAL GUARDIAN FATHER
SANTOSH SHANKARRAO KATAMWAD

VERSUS

DIRECTOR OF MEDICAL EDUCATON AND RESEARCH AND OTHERS

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Advocate for Petitioner : Mr. S.S. Phatale
AGP for Respondents 1 & 3 : Mr. P.S. Patil
Advocate for Respondent 2 : Mr. M.D. Narwadkar

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**CORAM : S.V. GANGAPURWALA &
R.N. LADDHA, JJ.**

DATED : 03/12/2021.

PER COURT :

. The caste claim of the petitioner as 'Koli Mahadev',
Scheduled Tribe is invalidated.

2. Mr. Phatale, learned advocate for the petitioner submits that the petitioner's father and real paternal uncle are issued with validity certificate of 'Koli Mahadev' Scheduled Tribe. The contra entry relied by the Committee while invalidating the claim of the petitioner was subject matter of the proceeding when the father of the petitioner was issued with the validity certificate. Father of the petitioner did not suppress any material fact. The learned counsel relies on the judgment in case of **Apoorva Nichale Vs. Divisional Caste Scrutiny Committee**

reported in **(2010) 6 Mh.L.J. 401** to contend that if the validity is granted to the near relative, the same is relevant fact. The learned counsel submits that in case of father of the petitioner the Committee came to the conclusion that he has proved the affinity test. The learned counsel submits that even otherwise, the affinity test is not the litmus test. The learned counsel relied on the decision of the Apex Court in the case of **Anand Vs. Committee for Scrutiny and Verification of Tribe claims**, reported in **(2012) 1 SCC 113**.

3. Mr. P.S. Patil, learned AGP submits that there are contra entries on the record. Contra entries are the subject matter while issuing validity certificate to the father of the petitioner. In respect of father of the petitioner, one contra entry is on record. However, in respect of other entry, no interpolation is on the record. The learned AGP submits that the petitioner could not prove the affinity test.

4. It appears that contra entry in respect of grandfather of the petitioner and one entry of the father of the petitioner were on record while issuing validity certificate to the father of the petitioner. Even vigilance was conducted in respect of the contra entries and thereafter, the validity certificate was issued to the father of the

petitioner. The real paternal uncle of the petitioner is also issued with the validity certificate of Koli Mahadev Scheduled Tribe. It does not appear that there was suppression of material entries while issuing validity certificate to the father of the petitioner. The validity issued to the near relative is a relevant factor. In the light of above, we pass the following order.

ORDER

- (I) The Committee shall issue validity certificate to the petitioner of the 'Koli Mahadev' Scheduled Tribe immediately.
- (II) 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 petitioner.
- (III) Writ petition is disposed of. No costs.

[R.N. LADDHA, J.]

[S.V. GANGAPURWALA, J.]

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