

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

WRIT PETITION NO. 12632 OF 2021

Purnima Chunnilal Deoraj .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Mr. S. R. Barlinge, Advocate for the Petitioner.

Mr. S. K. Tambe, AGP for Respondent Nos. 1 and 2.

Mr. Y. B. Bolkar, Advocate h/f Mr. A. B. Girase, Advocate for Respondent No. 3.

**WITH
WRIT PETITION NO. 8284 OF 2021**

Madhavrao Rupchand Deoraj .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Mr. S. R. Barlinge, Advocate for the Petitioner.

Mr. S. K. Tambe, AGP for Respondent Nos. 1 to 4.

**CORAM : S. V. GANGAPURWALA &
S. G. DIGE, JJ.**

DATED : 23rd DECEMBER, 2021.

PER COURT:-

. The petitioners in both the writ petitions are paternal relatives. The tribe claims of the petitioners as belonging to “Tokre Koli” (Scheduled Tribe) are invalidated. Aggrieved thereby the present petitions.

2. Mr. Barlinge, learned counsel for the petitioners submits that there are five validity certificates issued to the family members of the petitioners. Chhagan s/o Sitaram Deoraj the paternal cousin of the petitioners had also applied for the validity certificate of “Tokre Koli” (Scheduled Tribe). The same was invalidated. He filed Writ Petition No. 2741 of 1991 challenging the invalidation of his tribe claim. The Division Bench of this Court under judgment and order dated 31.03.1998 set aside the judgment of the scrutiny committee invalidating the tribe claim of the petitioner and directed the committee to issue validity certificate to Chhagan of “Tokre Koli” (Scheduled Tribe). Another paternal cousin of the petitioners namely Ujwal Vilas Deoraj had also applied for the validity certificate. The committee had invalidated the tribe claim. He filed Writ Petition No. 356 of 2021. This Court under judgment and order dated 13.01.2021 allowed the writ petition and directed the committee to issue validity certificate to him. It is further submitted by the learned counsel that Chunnilal father of Purnima – the petitioner in Writ Petition No. 12632 of 2021 is also issued with the validity certificate of “Tokre Koli” (Scheduled Tribe) by the scrutiny committee. Yogesh i.e. the son of petitioner - Madhavrao in Writ Petition No. 8284 of 2021 is also issued with the validity certificate of “Tokre Koli” (Scheduled Tribe) by the committee. Another paternal cousin Jijabrao s/o Bhaskar

is also issued with the validity certificate by the scrutiny committee. In the wake of all these validity certificates it was erroneous on the part of the committee to negative the claims of the petitioners. The learned counsel relies on the judgment of the Division Bench of this Court in a case of *Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 and others* reported in *2010 (6) Mh.L.J. 401* and submits that the validity issued in favour of members of the family is a relevant fact. The only exception is if earlier validity certificate is stated by fraud or is granted without jurisdiction. In the present case, there is no finding of fraud by the committee. When the father of the petitioner in Writ Petition No. 12632 of 2021 is granted validity by the committee the petitioner also needs to be granted validity. Only because some documents were not produced earlier would not be a ground to come to the conclusion that fraud is committed. The learned counsel relies on the judgment of the Division Bench of this Court in Writ Petition No. 8107 of 2019 dated 26.07.2021 delivered at Nagpur. Further reliance is placed by the learned counsel on the judgment of the Division Bench of this Court in a case of *Pramodkumar Narendrakumar Wagh and others Vs. State of Maharashtra and another* reported in *2015 (4) Mh.L.J. 949* and submits that when relatives are granted validity certificates on the basis of the orders passed by the High Court the scope and authority of the scrutiny committee in such

matters is very limited.

3. The learned A.G.P. for respondents/State submits that the petitioners did not bring it to the notice of the committee earlier that the tribe claim of one of the paternal relative of the petitioners namely Muktai d/o Gulab Deoraj was invalidated. She filed Writ Petition No. 8776 of 2010. Under order dated 06.12.2010 the Division bench of this Court dismissed the writ petition confirming the judgment of the scrutiny committee in view of the contra evidence on record. The committee has considered the contra evidence on record. In view of the contra evidence on record the committee has come to the correct conclusion. In addition, the petitioners have also failed in the affinity test.

4. The relationship of the petitioners with the validity holders is not disputed. The Division Bench of this Court in the year 1998 had directed the committee to issue validity certificate to one of the paternal relative of the petitioners namely Chhagan under judgment and order dated 31.03.1998 in Writ Petition No. 2741 of 1991.

5. There appears to be some contra entries on record. Some of the contra entries though not all were subject matter of vigilance in case of paternal relatives of the petitioners to whom validity certificates are

issued. In case of Chhagan Sitaram Deoraj, Hemangi Madhukar Deoraj and Ujwal Vilas Deoraj the paternal relatives of the petitioners, the validity certificates are issued under the orders of this Court, whereas, under the orders of this Court the invalidation is confirmed in case of one paternal relative namely Muktai d/o Gulab Deoraj. The reliance is placed on the judgment of the Division Bench of this Court in a case of Anil Shivram Bandawar in Writ Petition No. 8107 of 2019 dated 26.07.2021 to contend that failing to produce before the scrutiny committee the old records does not amount to playing fraud while seeking tribe validity certificate.

6. It is stated by the learned A.G.P. that the committee is contemplating steps for review of the judgments of this Court wherein validities are issued.

7. Considering the three judgments delivered directing issuance of validity certificates i.e. the judgment prior to and subsequent to the invalidation in case of Muktai d/o Gulab Deoraj and particularly the orders passed in a case of Hemangi Madhukar Deoraj dated 03.08.2021 in Writ Petition No. 7307 of 2021 and order dated 13.01.2021 in Writ Petition No. 356 of 2021, we follow the same course and pass the following order.

8. The committee shall issue validity certificates to the petitioners of “Tokre Koli” (Scheduled Tribe).

9. In case, the judgment of this Court in Writ Petition No. 2741 of 1991 dated 31.03.1998 is reviewed and/or the claim of the paternal relatives of the petitioners is subsequently invalidated after reopening of the proceedings, then the committee may take appropriate steps against the petitioners.

10. Writ petitions accordingly are disposed of. No costs.

(S. G. DIGE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.