

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

WRIT PETITION NO. 7869 OF 2020

1. Arvind S/o Tejrao Kakulte,
Age : 45 Years, Occu. : Service,
R/o Silvernest, "B" Wing,
Plot No. 701, J.S.P.M. College Road,
Narhe, Taluka Haveli,
District Pune.
2. Ku. Savita Madhavrao Kakulte,
Age : Major, Occu. : Nil,
R/o Nidhona, Tq. Phulambri,
District Aurangabad.
3. Rameshwar Madhavrao Kakulte,
Age : Major, Occu. : Student,
R/o Nidhona, Tq. Phulambri,
District Aurangabad. .. Petitioners

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad,
Through its Member Secretary.
3. The Principal,
Sir Parshurambhau Mahavidyalaya,
Tilak Road, Lokmanya Nagar,
Pune. .. Respondents

Shri S. R. Barlinge, Advocate for Petitioners.

Shri K. N. Lokhande, A.G.P. for Respondent Nos. 1 and 2.

CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.
DATE : 20TH JANUARY, 2021.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. The tribe claims of the petitioners as belonging to Koli Mahadev (Scheduled Tribe) have been invalidated under common judgment dated 13.10.2020 by the Scrutiny Committee. The petitioner Nos. 2 and 3 are real sister and brother. The petitioner No. 1 is paternal cousin of petitioner Nos. 2 and 3.

3. Mr. Barlinge, the learned counsel for petitioners submits that, the real brother of petitioner Nos. 2 and 3 namely Yogesh Madhavrao Kakulte had also applied for issuance of validity certificate of Koli Mahadev (Scheduled Tribe). Same was invalidated by the Committee. He filed writ petition before this Court. The Division Bench of this Court allowed the said writ petition and directed the Committee to issue validity certificate to him of Koli Mahadev (S.T.). Said judgment is reported in **2006 (3) Mh.L.J. 691**. The learned counsel further submits that, the State had challenged the said judgment before the Apex Court. The Apex Court has dismissed the Special Leave Petition and confirmed the judgment of this Court, still the Committee has invalidated the tribe claims of the real brother and sister of Yogesh Madhavrao Kakulte.

4. Mr. Lokhande, the learned Assistant Government Pleader for respondent Nos. 1 and 2 submits that, earlier there was suppression of certain facts. New documents came to the light of the committee. Considering the same, the judgment has been delivered.

5. The relationship of the petitioners interse with Yogesh Madhavrao Kakulte is not disputed. Yogesh Madhavrao Kakulte is real brother of petitioner Nos. 2 and 3, so also paternal cousin of the petitioner No. 1. This Court while validating the tribe claim of Yogesh Madhavrao Kakulte has considered all the facts in detail.

6. The judgment of this Court is also confirmed by the Apex Court. The Committee ought not to have ventured into scrutinizing legality of the judgment of the High Court. The Committee was bound by the judgment delivered by the High Court and confirmed by the Supreme Court in the case of real brother of petitioner Nos. 2 and 3. Unless the judgment of this Court is reviewed, it would not be open for the respondent/committee to take a different view. The judgment of the Division Bench of this Court in the case of Apoorva Nichale Vs. Divisional Caste Scrutiny Committee reported in *2010(6) Mh.L.J. 401* would be relevant. In the said judgment, it is held by this Court that, validity issued to the paternal relative is a relevant fact.

7. For the reasons recorded in the judgment delivered in the case of Yogesh Madhavrao Kakulte *supra* and confirmed by the Supreme Court, the impugned judgment and order of the Scrutiny Committee is quashed and set aside. The Committee shall issue validity certificates to petitioners of Koli Mahadev (Scheduled Tribe) immediately.

8. Rule accordingly is made absolute in above terms. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/Jan. 21