

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

WRIT PETITION NO.9761 OF 2021

Vighnesh S/o Venkat Phulsure,
Age: 17 years, Occu. Education,
R/o. Limbala, Tq. Nilanga,
Dist. Latur
Through power of attorney holder
Vishwanath S/o Sadashiv Phulsure
Age. 70 years, Occu. Pensioner
R/o. As above

... Petitioner.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R),
Aurangabad.
3. The Commissioner & Competent Authority,
Commissionerate of Common Entrance Test Cell,
Government of Maharashtra,
8th Floor, New Excelsior Building,
A. K. Naik Marg, Fort, Mumbai.

... Respondents

Mr. Sunil M. Vibhute, Advocate for petitioner.

Mr. A. R. Kale, A.G.P for respondent Nos.1 & 2.

Mr. S. G. Karlekar, Advocate for respondent No.3.

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

DATE : 15th November, 2021.

O R D E R: PER R. N. LADDHA, J.

This petition is directed against the decision and order dated 5th August, 2021 of the Scheduled Tribe Certificate Scrutiny Committee, Aurangabad, respondent No.2, invaliding the Tribe Certificate dated 7th April, 2008 issued to petitioner Vighnesh, by the Sub-Divisional Officer, Nilanga, District-Latur, certifying that he belongs to “Koli Mahadev Scheduled Tribe”.

2. Aggrieved by the order of rejection of his tribe claim, the petitioner preferred this petition.

3. We have heard Mr. S. M. Vibhute, learned counsel for petitioner, Mr. A. R. Kale, learned A.G.P for respondent Nos.1 and 2 and Mr. S. G. Karlekar, learned counsel for respondent No.3.

4. Mr. S. M. Vibhute, learned counsel for the petitioner

submits that the petitioner is exploring possibility of admission to the professional course. He submits that the father of the petitioner namely Venkat, grandfather of the petitioner namely Vishwanath, so also, real aunts of the petitioner namely Mahadevi Vishwanath Phulsure, Mangala Vishwanath Phulsure and Manisha Vishwanath Phulsure and the paternal cousin uncle of the petitioner namely Shankar Shreerang Phulsure are all issued with the validity certificates of “Koli Mahadev Scheduled Tribe”. According to the learned counsel for petitioner, it is mandatory to issue caste validity certificate if the validity is already issued to blood relatives of the petitioner. Reliance is placed on the judgment of the Honourable Supreme Court in the case of *Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee and others, reported in, 2010 (6) Mh.L.J. 401.*

5. It has been submitted that the caste validity certificates produced on record of blood relatives have been overlooked. The judgment of the Honourable Supreme Court in the case of *Anand Vs. Committee for Scrutiny and Verification of Tribe Claims, reported in, AIR 2012 SC 314* is relied upon to submit

that the affinity test is not litmus test for establishing the link of the petitioner with a scheduled tribe.

6. On the other hand, the learned A.G.P. appearing for respondent Nos.1 and 2 has submitted that the vigilance report giving all the details regarding social, cultural, anthropological traits, characteristic and traditions have been considered properly by the respondent Committee. He further submits that the validity certificates have been obtained by the near relations of the petitioner by suppressing the entries in the school record or by withholding material facts from the Committee. There are many contra entries, which were suppressed while validity was issued by the blood relatives of the petitioner. It is submitted that show cause notices are issued to the paternal relatives of the petitioner.

7. The relationship of the petitioner with the validity holders as claimed by him is not disputed. The father of the petitioner is also issued with the validity certificate. There are paternal relatives of the petitioner, who are issued with the validity certificates of "Koli Mahadev Scheduled Tribe". The same is relevant fact. The affinity test is not litmus test for establishing the link of the petitioner with a

scheduled tribe as enunciated by the Honourable Supreme Court in the case of *Anand* (supra).

8. In view of the above, we pass the following Order:

ORDER

- I. The Committee shall issue the validity certificate to the petitioner of Koli Mahadev, Scheduled Tribe immediately.
- II. The said validity certificate will 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 accordingly stands disposed of. No costs.

[R.N. LADDHA, J.]

[S.V. GANGAPURWALA, J.]

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