

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

973 WRIT PETITION NO.1678 OF 2021

**KETAN KASHINATH PANDHARE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

**...
Advocate for Petitioners : Mr Jadhav Vivek U.
AGP for Respondents State: Mr. K. N.Lokhande**

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

DATE : 28th January, 2021

ORDER:

1. Tribe claim of the petitioner as Koli Mahadev Scheduled Tribe is invalidated.
2. It is submitted that another paternal cousin of the petitioner namely, Ku. Mayuri d/o Jagannath Pandhare had also applied for validity certificate of Koli Mahadev Scheduled Tribe. The Committee, under common judgment dated 21.11.2020, invalidated the caste claim of the present petitioner and Ku. Mayuri d/o Jagannath Pandhare. Said Ku. Mayuri Pandhare filed writ petition No. 8088/2020. This court, under judgment and order dated 18.12.2020, allowed the said writ petition, directing the committee to issue validity certificate to her subject to the decisions in the proceedings, reopened of the validity holders, relied by the said petitioner.
3. Learned A.G.P. does not dispute the relationship of the present petitioner and the petitioner in writ petition No.8088/2020 as paternal cousin and that the committee, by common judgment, had validated the

tribe claim of both these petitioners.

4. This Court, in Writ petition No.8088/2020, filed by KMayuri d/o Jagannath Pandhare, under judgment and order dated 18.12.2020, has observed as under:

"18. As on today, there are nine tribe validity certificates in the family of the petitioner even though learned Assistant Government Pleader submitted that tribe claim of Balaji Angadrao Pandhare is invalidated on 30.09.2005, it appears to be factually incorrect statement. On perusing the original file of Balaji Angadrao Pandhare, it is evident that Balaji Pandhare has filed writ petition No. 2110/2006 in this Court feeling aggrieved by the order passed by the Committee invalidating his tribe claim as belonging to 'Koli Mahadev' Scheduled Tribe. This Court under order dated 6th March, 2009 was pleased to quash and set aside the order of the Committee dated 30.09.2005 and matter was remitted back to the Committee for a decision afresh. The Committee has decided tribe claim of Balaji Angadrao Pandhare afresh by conducting hearing on 17.06.2019. The said order is undated as appearing from the original file of Balaji. However, the Committee after perusing the vigilance report, the remarks of the Research Officer and other papers pleased to grant tribe certificate to Balaji of being a "Mahadev Koli", Scheduled Tribe.

19. On perusing the original file of Angad Laxman Pandhare, it is evident that his tribe claim has been turned down by the Committee vide order dated 29.12.1995 and same has reached finality. Thus, it is clear that there are nine valid tribe validity certificates in the family of petitioner referred above including his father. The Division Bench of this Court in the case of Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No. 1 and others reported in 2010 (6) Mh.L.J. 401 observed that where a Committee has given a finding about the validity of the caste of a candidate, another Committee ought not to refuse the same status to a blood relative who applies. A merely different view on the same facts would not entitle the Committee dealing with the subsequent caste claim to reject it. There is, however, no doubt that if a Committee is of the view that the earlier certificate is obtained by fraud, it would not be bound to follow the earlier caste validity certificate and is entitled to refuse the caste claim and also in addition initiate proceedings for cancellation of the earlier order.

20. Whatever disputed entries pointed out by the learned Assistant Government Pleader were also subject matter while granting

earlier validity certificates in the family of the petitioner. In the earlier validity proceedings, the vigilance seems to have conducted and tribe validity certificates have been issued. In the above premise, we do not find any merit in the submissions of the learned Assistant Government Pleader."

5. For the reasons stated in the said judgment, we pass following order:

O R D E R

- i. The impugned order is quashed and set aside.
 - ii. The Committee shall issue validity certificate to the petitioner of Koli Mahadev - Scheduled Tribe immediately. The said validity certificate shall be subject to the decision that would be taken by the Committee in proceedings re-opened of the validly holders relied by the petitioner.
6. Writ petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC