

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

WRIT PETITION NO. 8894 OF 2020

Prathamesh s/o Maruti Sabale

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr D.D. Choudhari, Advocate for petitioner
Mr P.S. Patil, Addl. G.P. for respondents no.1 and 2
Mr S.G. Karlekar, Advocate for respondent no.3

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

DATE : 15th January 2021

PER COURT :

1. The caste claim of the petitioner as Koli Mahadev - Scheduled Tribe is invalidated.
2. Mr Choudhari, learned Advocate for the petitioner submits that the father of the petitioner and two real uncles of the petitioner are issued with the validity certificates of Koli Mahadev - Scheduled Tribe.
3. The pre-independence document of grandfather of the petitioner of the year 1948 records caste as Hindu Mahadev Koli. The vigilance has also confirmed the same.
4. According to learned A.G.P., show cause notices are issued to the validity holders relied upon by the petitioner.
5. Learned Advocate for the petitioner relied upon the judgment of this Court in 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**.

6. The learned A.G.P. submits that the other close relatives of the petitioner namely Pramila, daughter of Govind had also applied for the validity certificate. Her claim is invalidated. Learned A.G.P. submits that the petitioner failed in the affinity test. There is contrary evidence on record.

7. It is a matter of record that the father of the petitioner and two real uncles of the petitioner are issued with the validity certificates of Koli Mahadev - Scheduled Tribe. The relationship of the petitioner with Pramila cannot be conclusively established. The Division Bench of this Court in case of **Apoorva Nichale Vs. Divisional Caste Certificate Committee** (supra), has held that the validity in favour of the paternal relatives is a relevant fact.

8. The show cause notices are issued to the validity holders relied by the petitioner.

9. In light of that, the impugned order is quashed and set aside. The Scrutiny Committee shall issue validity certificate to the petitioner as Koli Mahadev -Scheduled Tribe immediately.

10. 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.

11. Writ Petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

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