

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11933 OF 2021

ABHIJIT DAGDUBA SAPKAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Omgashad B. Boinwad
Addl. GP for Respondents No.1 to 3 : Mrs. M.A. Deshpande
Advocate for Respondent No. 4 : Mr. Shrikant P. Patil
...

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

DATE : 27th OCTOBER, 2021

PER COURT :-

The caste claim of the petitioner is invalidated. The petitioner claims that he belongs to “Koli Malhar” Scheduled Tribe. Learned counsel for petitioner submits that the Committee had also invalidated the caste claim of the brother of petitioner, namely, Vaibhav Dagduba Sapkal and the said invalidation of tribe claim was assailed before this Court at Principal Seat, by filing Writ Petition No. 7490 of 2018. The Division Bench of this Court at Principal Seat under Judgment and order dated July 25, 2018 allowed the Writ Petition and directed the Committee to issue conditional validity.

2. Learned AGP submits that there are contra entries on record and the same have been considered by the Committee and also the petitioner failed in the affinity test.

3. It is submitted that father of petitioner is issued with validity certificate on 28th January, 2011. The real brother of the petitioner was also denied validity. The said invalidation of tribe claim was assailed before this Court at Principal Seat, by filing Writ Petition No. 7490 of 2018. The Division Bench of this Court at Principal Seat under Judgment and order dated July 25, 2018, while allowing the Writ Petition has observed in paragraph No. 8 of the judgment, which reads as under:

“8. In view of above, the Committee is directed to issue tribe validity certificate to the petitioner forthwith. As the Committee has already initiated proceeding for cancellation of validity issue to the blood relations of the petitioner, in response to the Courts query, it is assured by the Committee that the Committee will conclude those proceeding within a period of three months from the date of receipt of copy of this order. If the proceeding for cancellation of caste validity holder is answered against such certificate holder, it shall be open for the Respondent Committee to issue show cause notice to the petitioner as to why the validity certificate granted to petitioner should not be cancelled and it will be open for the Committee to take those proceeding to its logical end. Needless to say that the certificate issued to the petitioner is subject to the outcome of the proceeding for cancellation of validity issued in favour of her blood relations.”

4. In the light of that, we, therefore, adopt same course and pass the following order.

ORDER

The Respondent – Committee shall issue validity certificate to the petitioner as ‘Koli Malhar’ Scheduled Tribe. As the Committee has already initiated proceeding for cancellation of validity issued to the blood

relations of the petitioner, in response to the Courts query, it is assured by the Committee that the Committee will conclude those proceedings within a period of three months from the date of receipt of copy of this order. If the proceeding for cancellation of caste validity holder is answered against such certificate holder, it shall be open for the Respondent Committee to issue show cause notice to the petitioner as to why the validity certificate granted to petitioner should not be cancelled and it will be open for the Committee to take those proceedings to its logical end. Needless to say that the certificate issued to the petitioner is subject to the outcome of the proceeding for cancellation of validity issued in favour of her blood relations.

5. With above observations, writ petition is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

mtk