

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.358 OF 2022**

TANAYA SADANAND MARKANTE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Sunil M. Vibhute, Advocate for the Petitioner.
Mr. S. K. Tambe, AGP for Respondents-State.

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**CORAM : S. V. GANGAPURWALA &
S. G. DIGE, JJ.**

DATED : 10th JANUARY, 2022.

PER COURT:-

1. The tribe claim of the petitioner as belonging to "Koli Mahadev" (Scheduled Tribe) is invalidated.

2. The learned counsel for the petitioner submits that, the tribe claim of the real sister of the petitioner namely Vinaya D/o Sadanand Markant was also invalidated. She filed Writ Petition bearing No.8344/2020. This Court under judgment and order dated 17.12.2020 directed the Committee to issue validity certificate to her subject to the decision in case of the proceedings reopened of the validity holders relied by the petitioner.

3. Mr. Vibhute, the learned counsel for the petitioner submits that, the real paternal uncle of the petitioner namely Ravishankar Mashnaji Markante

is issued with the validity certificate of Koli Mahadev (S.T.). The real paternal aunt of the petitioner namely Mainawati D/o Madhavrao Redewad is also issued with the validity certificate of "Koli Mahadev" (S.T.). The vigilance is conducted while issuing validity to these persons. Contra entries were also subject matter of consideration in those proceedings. According to the learned counsel on erroneous ground the validity is refused to the petitioner. The learned counsel relies on the judgment of the Apex Court in the case of **Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee** reported in 2010 (6) **Mh.L.J. 401** to submit that when paternal relatives are granted validity, the same would be relevant fact.

4. The learned Assistant Government Pleader for respondents /State submits that, paternal uncle of the petitioner Ravishankar is issued validity certificate on the basis of validity issued to the maternal relative namely Govind Parmeshu Nilawar. The same would not be relevant. According to the learned A. G. P., the petitioner has failed in the affinity test. Even the school entries of the cousin grandfather of the petitioner Dhondiba Rama, cousin aunt Gangabai Santuka and another cousin grandfather Prakash Santuka, entry of tribe recorded as Koli. All these contra entries were not considered while issuing validity certificate to the paternal uncle and aunt of the petitioner.

5. Mr. Vibhute, the learned counsel for the petitioner further submits that, the paternal uncle of the petitioner namely Ravishankar Markante is issued with the validity certificate after considering all the documents and the validity issued in favour of his paternal relative namely Narsing Naroji Markante.

6. We have considered the submissions canvassed by the learned counsel for the respective parties.

7. The petitioner has denied is relationship with Dhondiba Rama, Gangabai Santuka, Prakash Santuka and Yadav Rama. The committee could not establish the relationship of the petitioner with these persons, wherein contra entries of Koli are recorded. The real paternal uncle and aunt of the petitioner are issued with the validity certificate of Koli Mahadev (S.T.). The vigilance was also conducted in their cases. The contra entry of the grandfather was also subject matter of consideration.

8. Considering the judgment of the Apex Court in the case of **Apoorva Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee** (supra), we pass following order.

9. The impugned judgment is quashed and set aside. The Committee shall issue validity

certificate of the "Koli Mahadev" (Scheduled Tribe) to the petitioner immediately. The said certificate would be subject to the decision that would be taken by the committee in the case of real paternal uncle of the petitioner relied by the petitioner.

10. In the light of the above, the writ petition is disposed of. No costs.

(S. G. DIGE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE