

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

984 WRIT PETITION NO. 1069 OF 2022

1. Rajnandini d/o Ramesh Jadhav
Age : 20 years, Occu. Student,
R/o: Plot No. 39, Vitthalnagar,
Near Anandnagar, Jamner,
Tq. Jamner, Dist. Jalgaon.
2. Devainsh S/o Ramesh Jadhav,
Age : 14 years, Occu. Student,
Since minor through his father
Ramesh s/o Nina Jadhav,
Age : 50 years, Occu. Service,
R/o Plot No. 39, Vitthalnagar,
Near Anandnagar, Jamner,
Tq. Jamner, District Jalgaon

... PETITIONERS

VERSUS

1. The State of Maharashtra
Through its Secretary,
Medical Education and Drugs
Department, Mantralaya,
Mantralaya, Mumbai -32
2. The Director of Medical
Education and Research,
CET Cell, Opp. Government
Dental College and Hospital,
Building, Saint George's
Hospital Compound,
Near C.S.T. Railway Station,
Mumbai.
3. State Common Entrance Test Cell,
Maharashtra State, 8th Floor, New
Excelsior Building, A.K. Nayak Marg,
Fort, Mumbai, Through its Commissioner
and Competent Authority.
4. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar
Division, Nandurbar, through its
Member Secretary

.... RESPONDENTS

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Mr. S.R. Barlinge and Mr. V S Bholankar Advocate for Petitioners
Mr. S.P. Tiwari, AGP for Respondent Nos. 1 and 2
Mr. M.D. Narwadkar, Advocate for Respondent No. 3

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

DATE : 27th JANUARY, 2022

ORAL JUDGMENT : (PER : S.V. GANGAPURWALA, J.)

1. **Rule.** Rule made returnable forthwith. With consent of parties the matter is taken up for final hearing at the admission stage.
2. The caste claim of the petitioners as belonging to 'Tokre Koli' Scheduled Tribe, is invalidated.
3. Mr. Barlinge, learned counsel for the petitioners submits that Sunil Baliram Jadhav is paternal cousin uncle of the petitioners. Earlier the claim of the petitioner No. 1 was invalidated, as the Committee came to the conclusion that petitioner No. 1 could not prove relationship with Sunil Baliram Jadhav. She filed writ petition No. 8086 of 2020 before this Court. The Division Bench of this Court under Judgment and order dated 15th December, 2020 in Writ Petition No. 8086 of 2020 remanded the matter to the Committee. After remand of the matter, the petitioners could establish their relationship with Sunil Baliram Jadhav. The Committee has also considered the relationship of the petitioners' father with Sunil Baliram Jadhav. The validity certificate is directed to be issued to Sunil Baliram Jadhav under order of Division Bench of this Court on January 15, 2004 in Writ Petition No. 2604 of 2003. Father of the petitioners is also issued with validity certificate of 'Tokre Koli' scheduled tribe. Oldest entry is of the year 1910 in the name of paternal cousin of the petitioners, namely, Giti. The vigilance has also accepted

the entry as genuine one. Other contra entries of the year 1916 and 1986 were also the subject matter of consideration before the Committee, when father of the petitioners was issued with validity certificate. When this Court has directed the Committee to issue validity certificate to paternal cousin uncle of the petitioners, the petitioners ought to have been issued with validity certificates.

4. The learned AGP for respondents submits that there are other contra entries on record, which were not considered by the Committee while issuing the validity to Ramesh, the father of the petitioners. The contra entries are of the years 1936, 1921, 1916 which records the caste as 'Koli'. The learned AGP submits that even entry in the old record of 1910 relied upon by petitioners does not demonstrate caste as 'Tokre Koli' but recorded as 'Koli Tokre', the same is not as per presidential Notification. The petitioners failed in affinity test.

5. We have considered the submissions canvassed by the learned counsel for the parties. We have also perused the judgment of the Scrutiny Committee.

6. Initially, caste claim of the petitioner No. 1 was invalidated by the Committee. She filed writ petition bearing No. 8086 of 2020 before this Court. This Court remanded the said matter by setting aside the Judgment of the Committee. This Court observed that the relationship of the father of the petitioner with Sunil Baliram Jadhav was not established and there is nothing on record to establish the relationship, therefore, the matter was remanded so as to enable the petitioner therein to prove her relationship with Sunil Baliram Jadhav. After remand of the matter, caste claim of the petitioners is again invalidated by the Committee. However, the Committee accepted the relationship of the petitioners' father with Sunil Baliram Jadhav. They are paternal

cousins.

7. The caste claim of Sunil Baliram Jadhav was also invalidated by the Committee. Hence, he filed writ petition No. 2604 of 2003. The Division Bench of this Court under Judgment and order dated January 15, 2004 set aside the Judgment of the Scrutiny Committee and directed the Committee to issue validity certificate as 'Tokre Koli', Scheduled Tribe. In the said case vigilance was conducted. The Judgment delivered by this Court in the case of paternal relatives of the petitioners would be the relevant fact. The reference can be made to the Judgment of this Court in the case of *Apoorva d/o Vinay Nichale Versus Divisional Caste Certificate Scrutiny Committee and others* reported in *2010 (6) Mh.L.J. 401*.

8. It would also appear that before issuing validity to the father of the petitioners, the vigilance was conducted. In the vigilance report the contra entries in respect of school record of paternal cousins are referred to. In the school record of the year 1935 of father of petitioners, namely, Nina Jadhav, his caste is recorded as 'Koli'. In the school record of the year 1953 of uncle of petitioners, namely, Ananda Baliram, his caste is recorded as 'Koli' and in the school record of the year 1928 of uncle of petitioners, namely, Shankar, his caste is recorded as 'Koli' and the same were considered by the Committee while issuing validity to the father of the petitioners. Even there were entries of 'Tokre Koli'. In the present case, additional entry of the year 1910 in the name of paternal ancestor of the petitioners is also placed on record. The said entry is in Modi/Urdu script. The Vigilance Committee verified the same from the person having knowledge of Urdu. His report is filed on record. In the said report the caste is mentioned as 'Koli Tokre'. The Committee has not disputed the relationship of the petitioners with said person.

9. In view of aforesaid facts and judgment of this Court in the case of Sunil Baliram Jadhav dated 15th January, 2004 in Writ Petition No.2604 of 2003, and validity of the petitioners' father after considering the contra evidence on record, we pass the following order.

ORDER

- (i) The writ petition is allowed. The impugned Judgment is quashed and set aside.
 - (ii) The Committee shall issue validity certificates to the petitioners of '*Tokre Koli*', Scheduled Tribe immediately.
10. Rule is made absolute in aforesaid terms. No costs.

(S.G. DIGE)
JUDGE

(S.V. GANGAPURWALA)
JUDGE