

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

932 WRIT PETITION NO.9115 OF 2010

MOHAN RAGHUNATH SAPKALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner:
Mr. U. R. Awate h/f. Mr. Talekar S. B.
AGP for Respondents: Mr. A. R. Kale

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

DATE: 04th JANUARY, 2022

PER COURT:

1. The Tribe Claim of the Petitioner as belonging to Tokare Koli, Scheduled Tribe is invalidated.

2. Mr. Awate, learned Counsel for the Petitioner strenuously contends that the matter was heard by the Committee in January-2010. Though, the order is shown to have been passed on 24.06.2010, the order is signed by the Members of the Committee on 06.08.2010. The Judgment is delivered after 8 months. On this count alone the Judgment deserves to be set aside. The learned Counsel further submits that the validities granted to the paternal relatives of the Petitioner are discarded on the ground that the relationship is not proved. The vigilance has not

doubted the relation, the genealogy also establish that Devidas and Arun are the paternal cousins of the Petitioner. The validitites issued to them is a relevant fact. According to the learned Counsel, the school record of the Petitioner, his brother records the caste as Tokare Koli. The Service Book of the Petitioner also records tribe as Tokare Koli. The affinity test is not a litmus test.

3. Mr. Kale, the learned A.G.P. submits that the Petitioner could not establish the relationship, moreover, the contra entries on record were suppressed while issuing validity to the paternal relatives of the Petitioner. The father's school record demonstrates that the tribe is recorded as Suryawanshi Koli. In the school record of the uncle of the Petitioner also the tribe is recorded as Koli. All the old record records the tribe either as Suryawanshi Koli or Koli and not as Tokare Koli. The Petitioner has failed in the affinity test.

4. The relationship is also not proved of the validity holders relied by the Petitioner.

5. We have considered the submissions canvassed by the learned Counsel for respective parties.

6. It appears that the school record of the father of the Petitioner of the year-1955 records tribe as Suryawanshi Koli. The school record of the uncle of the Petitioner namely Channu records tribe as Suryawanshi Koli. Another school record of the same uncle of the Petitioner also records tribe as Suryawanshi Koli. The school record of another uncle of the Petitioner namely Manga records tribe as Hindu Koli. In respect of 3rd uncle of the Petitioner Ramdas tribe is recorded as Suryawanshi Koli in the school record. These are the old records wherein consistently the tribe is either recorded as Suryawanshi Koli or Koli. It is only in the generation of the Petitioner the tribe is recorded as Tokare Koli. The old documentary evidence has got more probative value.

7. Even assuming that the Petitioner established the relationship of the persons to whom the validities are issued, however, it is also a fact that these contra entries were not considered.

8. In view of the tribe recorded as Suryawanshi Koli in the school record of the father of the Petitioner in the year-1955 and 3 paternal real uncles of the Petitioner as Koli or Suryawanshi Koli coupled with it the Petitioner also could not prove the affinity test, the Petitioner cannot succeed.

9. We have considered the documentary evidence produced by the Petitioner on record, so also, the vigilance and thereby arrived at the conclusion. In view of that only because the Judgment is delivered after 8 months we have not remitted the matter back.

10. The Writ Petition accordingly stands disposed of. No costs.

[S. G. DIGE, J.]

[S. V. GANGAPURWALA, J.]

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