

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

WRIT PETITION NO. 810 OF 2023

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| 1. | Aditi d/o Shitalkumar Tawar | |
| 2. | Nikhil s/o Shitalkumar Tawar | ...Petitioners |
| | Versus | |
| 1. | Scheduled Tribe Certificate Scrutiny Committee,
Through its Member Secretary, Dhule. | |
| 2. | Gokhale Education Society's
R.H. Sapat College of Engineering,
Through its Principal, Nashik. | |
| 3. | MIT College of Engineering,
Kothrud, Pune. | ...Respondents |

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Advocates for Petitioner : Mr. M. S. Deshmukh i/by Mr. S.S. Phatale with Mr. V.S. Bholankar
AGP for Respondent No.1/State : Mr. S. G. Sangale

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 08 AUGUST 2023

ORDER (Shailesh P. Brahme, J.) :

. Heard learned Counsel for the respective parties for final adjudication of the matter.

2. Being aggrieved by common judgment and order dated 30.06.2022 passed by the respondent no.1/Scrutiny Committee, invalidating the claims of the petitioners, the preset petition is filed. The petitioners' caste certificates of Koli Dhor scheduled tribe, are under consideration. They are placing reliance upon the old entries of Saritanaji Suraji, Santosh Mahadu Koli, Hilaji Taraji Suraji and

Prabhakar Madhav Tawar.

3. The learned AGP would submit that the school record of the blood relatives of the petitioners was incompatible with their claim. The petitioners could not establish their claim unequivocally. According to him, the Scrutiny Committee is justified in holding affinity test against them.

4. The learned Counsel for the petitioners has drawn our attention to the clinching documentary evidence produced on record in the form of the entries of Saritanaji Suraji, Santosh Mahadu Koli, Hilaji Taraji Suraji and Prabhakar Madhav Tawar. This is pre-constitutional record having greater probative value. In view of the principles laid down in paragraph no. 22 of Supreme Court in the matter of **Anand Versus Committee for Scrutiny and Verification of Tribe Claims and Others**, reported in (2012) 1 SCC 113, we are satisfied that the petitioners have made out a case for issuing validity certificates.

5. The affinity test is not a litmus test. Therefore although finding on the affinity test is against the petitioners that is inconsequential in the present matter. We find that the petitioners have also produced validity certificates of Satish Prabhakar Tawar and Shitalkumar Prabhakar Tawar. Their validity certificates cannot be discarded. The Scrutiny Committee has not expressed any intention to reopen their cases.

6. For the reasons stated above, we are of the view that impugned judgment and order is unsustainable. The petitioners are entitled to receive validity certificates without incorporating any conditions. We, therefore, pass the following order.

ORDER

- A. The writ petition is partly allowed.
- B. The impugned order dated 30.06.2022 passed by the respondent no.1/Scrutiny Committee is quashed and set aside. The Scrutiny Committee shall immediately issue tribe validity certificates to the petitioners as belonging to 'Koli Dhor' (Scheduled Tribe).
- C. The certificates of validity shall be issued in the prescribed format without incorporating other conditions.
- D. The petitioners shall not be entitled to claim equities.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]