



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

904 WRIT PETITION NO. 6348 OF 2021

1. SOPAN RAMDAS TAYADE,
Age : 53 years, Occu. : Service,
R/o Khamkhede, Tq.Muktainagar,
District Jalgaon.
2. Saurabh Sopan Tayade,
Age : 25 years, Occu. : Student,
R/o Khamkhede, Tq.Muktainagar,
District Jalgaon.

...PETITIONER

-Versus-

1. The State of Maharashtra.
Through it's Secretary,
Tribal Development Department,
Government of Maharashtra,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar Region,
Nandurbar.
Through it's Member Secretary.
3. The Deputy Director,
All India Radio,
Aurangabad.
4. The Principal,
Mahatma Gandhi Mission's
Polytechnic, Aurangabad,
MGM Campus, N-6, CIDCO,
Aurangabad.

...RESPONDENTS

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Shri S.R. Barlinge, Advocate for the Petitioners.
Shri N.S. Tekale, AGP for Respondent Nos.1 and 2/State.
Shri B.B. Kulkarni, Standing Counsel for Respondent No.3.
Shri Rushikesh S. Aradwad, Advocate i/by Shri V.S. Kadam,
Advocate for Respondent No.4.

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**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 07th August, 2024

ORAL JUDGMENT (*Per Ravindra V. Ghuge, J.*):-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioners claim of belonging to 'Tokre Koli', Scheduled Tribe category has been rejected by the order dated 05.03.2021, passed by the Competent Committee.

3. The Petitioners have put forth prayer clauses A, B, C and D, as under:-

"A) By a writ of certiorari, or any other appropriate writ, or order directions in the like nature, impugned judgment or the and order dated 05.03.2021, passed by respondent No.2 Committee, may kindly be quashed and set aside.

- B) *By a writ of mandamus, or any other appropriate writ, or order or directions in the like nature, the Brespondent No.2 Committee may kindly be directed to issue validity certificates in favour of the petitioners as belonging to Tokre Koli Scheduled Tribe.*
- C) *Pending hearing and final disposal of this Writ Petition, the operation and execution of the impugned judgment and order dated 05.03.2021, passed by respondent No.2 Committee, may kindly be stayed.*
- D) *Pending hearing and final disposal of this writ petition, the respondents No. 3 and 4, their agents, servants or any other person/s acting on their behalf may kindly be restrained from taking any adverse action against the petitioner No.1 on the basis of impugned judgment and order dated 05.03.2021, passed by respondent No.2 Committee.”*

4. While passing the first order on 07.05.2021, this Court recorded that adverse penal action against the Petitioners shall not be taken.

5. Having heard the submissions of the learned Advocate for the Petitioners and the learned AGP on behalf of the Committee, the issue before us is reduced to a narrow compass. Petitioner No.1's biological brother Nivrutti Ramdas Tayade, was granted the validity certificate on 20.02.2008, by the

Committee. Subsequently, the Committee noticed certain discrepancies and reopened the case of Nivrutti for the reason that while scrutinizing the case of the present Petitioner No.1 Sopan, the Committee formed a prima facie opinion that there was material available for re-considering the validity certificate granted to Nivrutti.

6. After the Petitioner's claim was invalidated by the impugned order, the Committee proceeded to re-investigate the case of Nivrutti. The blood relationship between the present Petitioner No.1 Sopan and Nivrutti (siblings), is not disputed by the Committee. By the order dated 16.05.2024, upon re-verification, the claim of Nivrutti was accepted and it was concluded that he belongs to 'Tokre Koli', Scheduled Tribe category. Consequentially, the notice issued to Nivrutti was recalled and his validity certificate dated 23.04.2008, was confirmed. Copy of the said judgment is placed on record, which is marked as 'X' for identification.

7. Though the learned AGP has vehemently opposed this petition, he cannot contend, on the basis of the record, that

the present Petitioner No.1 Sopan is not the biological brother of Nivrutti. This facet of the case is covered by paragraph Nos.21, 22 and 23 of the judgment delivered by the Honourable Supreme Court in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti vs. The State of Maharashtra and others, AIR 2023 SC 1657***. Moreover, in view of the law laid down in ***Apoorva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 Nagpur, [2010(6) Mh.L.J.401 : AIR 2010(6) Bom.R.21]***, we are of the view that if a biological brother belongs to 'Tokre Koli', Scheduled Tribe category, the present Petitioner cannot belong to any other category.

8. In view of the above, **this Writ Petition is allowed in terms of prayer clauses A and B**. The validity certificate in favor of the Petitioners be issued, on or before 30.08.2024.

9. **Rule is made absolute in the above terms.**

kps

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)