



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10876 OF 2024

1) Rutuja d/o Gangadhar Pitlewad
Age 20 years, Occ. Education,
R/o. Mangyal Tq. Mukhed, Dist.
Nanded.

2) Pratik s/o Gangadhar Pitlewad
Age 17 years, Occ. Education,
Through father and natural
guardian Gangadhar s/o Vikram
Pitlewad.

... Petitioners.

VERSUS

1) The State of Maharashtra
2) The Scheduled Tribe Caste Certificate
Verification Committee Kinwat
Headquarter at Chh.Sambhaji Nagar,
Through its Dy.Director (R)

... Respondents

...

Advocate for Petitioners : Mr. S.M. Vibhute
A.G.P. for Respondents/State : Mr. N.S. Tekale

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

RESERVED ON : 23.10.2024
PRONOUNCED ON : 11.11.2024

ORDER : (MANGESH S. PATIL, J.)

The petitioners, who are siblings, are challenging the common judgment and order of respondent no. 2-scrutiny committee, refusing to validate their 'Koli Mahadev' scheduled tribe certificates, in a proceeding under Section 7 of the Maharashtra Act XXIII of 2001.

2. We have heard both the sides finally at the stage of admission, in light of the urgency.

3. The learned advocate for the petitioners would submit that the

observations and conclusions of the committee are perverse and arbitrary. The oldest favourable record of Maroti Vikram Pitalwad, who is the real uncle of the petitioners, of 1969, wherein he was described as 'Koli Mahadev' has been discarded by the committee on the basis of surmises and conjectures. Merely because the word 'Mahadev' appearing below 'Koli' has become faint over a period of time, the committee could not have discarded it. It was a record of more than 55 years old and being a favourable one has a greatest probative value as compared to the contrary entries of 'Koli' of latter period. He would submit that the committee also could not have but has applied affinity test. It has relied upon a contrary record of two individuals not related to the petitioners. The judgment and order be quashed and set aside and the petitioners be directed to be issued with certificates of validity.

4. The learned A.G.P would oppose the petition. He would submit that the burden was on the petitioners to substantiate their claim of belonging to 'Koli Mahadev' scheduled tribe, as per Rule 8 of Rules of 2003 framed under the Maharashtra Act XXIII of 2001. Except a dubious favourable entry of Maroti Vikram Pitalwad, there was nothing favourable before the committee. The very fact that the petitioners' father and uncles, while admitting to the school at a latter point of time were described as 'Koli' belies the petitioners claim and even substantiates the inference regarding manipulation in the school record of Maroti Vikram Pitalwad. There is no perversity or arbitrariness in the inference and conclusion drawn by the committee.

5. The learned A.G.P would further submit that the affinity test is one of the essential steps in the process of recognition of a claim of an individual of belonging to a particular scheduled caste or scheduled tribe. Its efficacy, though limited, has not been completely discarded by the Supreme Court in the matter of *Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others*; 2023 SCC Online SC 326. Since the

documents relied by the petitioners are not sufficient enough to substantiate their claims, no fault can be found with the committee in applying the affinity test. The petitioners could not withstand the test, and the committee has rightly discarded their claims.

6. We have carefully considered the rival submissions and perused the papers.

7. Ignoring the two contrary entries of Govind Hanmant and Balkisan Ramanna Pitalwad, appearing at Sr.No. 3 and 6 in table No. 3 of the vigilance cell report, as the petitioners are expressly denying any relationship with them, what remains before the committee in the form of documentary evidence in respect of the petitioners' father and his uncles is as under:

Sr. No.	Name of the claimant	Relationship with claimant	Name of the school	Name of the Caste mentioned in evidence	Date of birth/ admission date
1)	Maroti Vikram Pitalwad	Real uncle	Z. P. Primary School Mangyal Tq. Mukhed, Dist. Nanded	Koli Mahadev	Date of birth: 02/10/6 faint Admission date: 04.03.1969
2)	Mohan Vikram	Real uncle	Z. P. Primary School Mangyal Tq. Mukhed, Dist. Nanded	Koli	Date of birth: 10/07/1968 Admission date: 22.07.1974
3)	Balu Vikram	Real uncle	Z. P. Primary School Mangyal Tq. Mukhed, Dist. Nanded	Koli	Date of birth: 01/07/1972 Admission date: 11.07.1978
4)	Gangadhar Vikram Pitlewad	Father	Z. P. Primary School Mangyal Tq. Mukhed, Dist. Nanded	Koli	Date of birth: 01/07/1974 Admission date: 07.07.1980

8. The very fact that these are the entries in the school record of all the four brothers including the petitioners' father, if the earliest one, that of Maroti described him as 'Koli Mahadev', since it is the same school, the fact that the father and the other uncles were admitted to the same school, describing them as 'Koli', indeed, is a startling circumstance creating doubt about the school entry in respect of Maroti of 1969. If the eldest of the siblings was admitted to the school making it a point to describe him as 'Koli Mahadev', one wonders as to how the other brothers were still described as 'Koli'. One cannot ignore the fact that 'Koli' was notified earlier as 'Other Backward Class' and currently is a 'Special Backward Class' whereas 'Koli Mahadev' is a scheduled tribe and the former would be contrary to the latter claim.

9. Coupled with such a state of affairs, a coloured photo copy of the relevant page of the register clearly demonstrates that the word 'Mahadev' in the caste column of Maroti Vikram has been added subsequently in a different ink and at a latter point. There is a marked distinction in the handwriting and ink used while writing word 'Mahadev' as compared to the rest of the entries in different columns throughout this page. The plea of the petitioners that it could have faded due to passage of time is clearly misleading, else there cannot be any explanation as to why the rest of the entries and the handwriting on this page did not fade. In light of such a state of affairs, we do not find any perversity or arbitrariness in the observations and conclusions of the committee in refusing to rely upon this isolated favourable entry, which is indeed a dubious one.

10. Besides, to repeat, the fact that Maroti's other brothers at a later point of time were admitted to the same school with a specific description in the caste column as 'Koli' buttresses the inference drawn by the committee.

11. In light of the above, except favourable record of the petitioners of the recent past, the aforementioned contrary entries in the school record of their

father and uncles that too of a post constitutional period, demonstrates that their claims as belonging to 'Koli Mahadev' scheduled tribe are worth discarding, as has been rightly done by the committee.

12. Again, efficacy of the affinity test has not been outrightly rejected, albeit its scope is limited, as has been held in ***Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra)***. Since the documents relied upon by the petitioners apparently did not substantiate their claims, the committee has rightly applied the affinity test while considering their claims. The observation and conclusion of the committee, on the basis of their replies that the petitioners do not belong to 'Koli Mahadev' scheduled tribe and they failed to conform to the anthropological and ethnological traits, cannot be taken exception more so, in exercise of limited jurisdiction under Article 226 of the Constitution of India.

13. There is no merit in the petition and it is liable to be dismissed.

14. The writ petition is dismissed.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-