

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

WRIT PETITION NO. 8589 OF 2023

1. GAURI JITENDRA SAINDANE
2. GAURAV JITENDRA SAINDANE
VERSUS
SCHEDULED TRIBE CERTIFICATE, SCRUTINY COMMITTEE, DHULE,
THROUGH ITS MEMBER SECRETARY

....
Advocate for Petitioners : Mr. Sagar S. Phatale
AGP for Respondent : Mr. A.S. Shinde
....

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

DATED : 07 AUGUST, 2023

PER COURT (PER : SHAILESH P. BRAHME, J) :

1. Heard both the sides. Considering the urgency in the matter, it is taken up for final adjudication.

2. The petitioners are challenging common judgment and order dated 10.11.2022, invalidating their caste claim for 'Tokre Koli' scheduled tribe. They are siblings of Jitendra Kashinath Koli. They have placed on record the relevant school record of the relatives, genealogy, old record and their reply to the vigilance report. They are relying upon pre-independence record of close blood relatives.

3. Learned AGP supports the impugned judgment and order. According to him, the record shows that they were belonging to 'Koli' which is not a scheduled tribe. The Committee has rightly recorded the affinity test against them.

4. Learned AGP has produced on record original files of the petitioners. With his assistance, we have perused photocopies of the old record as well as other documents placed on record.

5. The petitioners are not relying upon any validity certificates issued to the blood relatives. However, number of documents are produced which are of pre-independence period disclosing caste as 'Tokre Koli'. A school leaving certificate of Motiram Shamji Koli shows caste as 'Tokre Koli'. Revenue record of Ramdas Dodha Nimji, grant grandfather of the petitioners, birth registration of Ramdas Dodha Nimji, Damota Dodhu Nimji, Vatsala Ramdas Dodha, Kashinath Ramdas Koli, disclose caste as 'Tokre Koli'.

6. The vigilance enquiry for verification of the old record of Motiram Shamji Koli and Damota Dodhu Nimji, was conducted. A report dated 27.04.2022, is placed on record to confirm the record. Similar type of report to confirm the old record of Ramdas Dodha

Nimji, Damota Dodha Nimji and Kashinath Ramdas Koli is also placed on record. The report confirms the caste as 'Tokre Koli'.

7. The above referred documents are clinching having greater probative value. In view of law laid down by Supreme Court in the matter of *Anand Versus Committee of Scrutiny and Verification of Tribe Claims and others*, reported in **2011 (6) Mh.L.J. 919**, the petitioners have made out a case for granting them validity. The Scrutiny Committee committed material irregularity in discarding the pre-independence record. The Committee has committed perversity in holding that there was no consistency in the record just because few entries of the blood relatives are of 'Hindu Koli' or 'Koli'.

8. The finding regarding affinity test recorded by the Scrutiny Committee is also unsustainable. We are of the considered view that the impugned judgment and order is liable to be quashed. For the reasons stated above, we allow the Writ Petition by following order :

ORDER

- i. The writ petition is allowed. The impugned judgment and order dated 10.11.2022, passed by the Scrutiny Committee is quashed and set aside.

- ii. The Scrutiny Committee shall immediately issue validity certificates to the petitioners as belonging to 'Tokre Koli' scheduled tribe, in the prescribed format.
- iii. The writ petition is disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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