

**2IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 8572 OF 2021

1. Kum. Pooja Narsing Yalmalwad,
Age 24 years, Occu. Student,
R/o. Somthana, Tq. Umari,
District Nanded.

2. Suhas Narsing Yalmalwad,
Age 22 years, Occu. Student,
R/o. Somthana, Tq. Umari,
District Nanded.

...Petitioners.

Versus

1. State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.

2. The Scheduled Tribe Caste Verification
Committee, Aurangabad Division,
Aurangabad,
Through its Member Secretary.

3. The Principal,
Vidarbh Ayurvedic College,
Amaravati, Tq. and Dist. Amaravati.

4. The Principal,
Yashwant Vidhyalaya, Nanded,
Tq. and District Nanded.

....Respondents.

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Mr. M.S. Deshmuk h/f. Mr. U.B. Gite, Advocate for the petitioners.

Mr. K.N. Lokhande, A.G.P. for respondent Nos. 1 and 2.

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AND
WRIT PETITION NO. 8612 OF 2021

Narsing Iranna Yalmalwad,
Age 46 years, Occu. Service,
R/o. Somthana, Tq. Umari,
District Nanded.

...Petitioner.

Versus

1. State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Caste Verification
Committee, Aurangabad Division,
Aurangabad,
Through its Member Secretary.
3. The Principal,
Kusumtai Secondary Vidhyalaya,
CIDCO, New Nanded,
Tq. and District Nanded.

....Respondents.

...

Mr. M.S. Deshmuk h/f. Mr. U.B. Gite, Advocate for the petitioners.

Mr. S.K. Tambe, A.G.P. for respondent Nos. 1 and 2.

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**CORAM : S.V. GANGAPURWALA &
R.N. LADDHA, JJ.**

DATED : 04/10/2021.

ORAL JUDGMENT : [PER S.V. GANGAPURWALA, J.]

. Rule. Rule made returnable forthwith. With the consent of

learned advocates for respective parties, matters are taken up for final hearing.

2) Petitioners in Writ Petition No.8572/2021 are children of the petitioner in Writ Petition No. 8612/2021. Their caste claim belonging to 'Koli – Mahadev' Scheduled Tribe is invalidated by the Committee by common judgment dated 28.7.2021. Aggrieved thereby, the present writ petitions.

3) Mr. M.S. Deshmukh, learned advocate for the petitioners submits that entry in the school record of the grandfather of the petitioners namely Irranna Saibu dated 22.7.1950 records caste as 'Koli Mahadev'. The Khastra Patrak in the name of Saibu records the caste as 'Koli Mahadev'. Saibu is great grandfather of the petitioner. The learned counsel for the petitioner submits that consistently in the school record of the petitioners, their caste is recorded as 'Koli Mahadev'. There is only one solitary adverse entry as 'Koli' dated 17.8.1965 in the school record of cousin of the petitioner namely Datta Irranna. The same cannot be sufficient to negate the case of the petitioners. The affinity test is the corroborative piece of evidence. The learned counsel relied on the decision of the Apex Court in the case of

Anand Vs. Committee for Scrutiny and Verification of Tribe claims, reported in (2012) 1 SCC 113. According to the learned counsel, the Committee nor the vigilance has raised suspicion for the entry of 1950 in the school record of grandfather of the petitioners.

4) The learned A.G.P submits that there is contra entry in the school record of the uncle of the petitioners namely Datta which records the caste as 'Koli'. The petitioners have failed in the affinity test. There are other entries recorded in the school record of the relatives of the petitioners. The same is also considered by the Committee. Considering the overall facts i.e. the contra entry in the school record of the cousin of the petitioners of the year 1965 recording caste as 'Koli' and the caste recorded in the record of various relatives of the petitioners, so also the petitioners not proving the affinity test, the committee has rightly passed the order.

5) We have considered the submission. We have also gone through the record and the judgment. The petitioners to prove their caste claim have relied on the following documents :-

अ. क.	दस्तऐवजाचा प्रकार	दस्तऐवजधारकाचे नाव	अर्जदार क.1 यांचेशी नाते	जातीची नोंद	नोंदणी दिनांक
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1	जात प्रमाणपत्र	पुजा नरसिंग यलमलवाड	अर्जदार क्र. 1	कोळी महादेव	04 / 06 / 2011
2	शपथपत्र (नमुना फ)	पुजा नरसिंग यलमलवाड	अर्जदार क्र. 1	---	29 / 10 / 2014
3	शाळा सोडल्याचे प्रमाणपत्र	पुजा नरसिंग यलमलवाड	अर्जदार क्र. 1	कोळी महादेव	10 / 06 / 2002
4	विद्यार्थी प्रवेश व निर्गम उत्तरा	पुजा नरसिंग यलमलवाड	अर्जदार क्र. 1	कोळी महादेव	10 / 06 / 2002
5	विद्यार्थी प्रवेश व निर्गम उत्तरा	पुजा नरसिंग यलमलवाड	अर्जदार क्र. 1	कोळी महादेव	23 / 06 / 2007
6	वर्तवणूक प्रमाणपत्र	पुजा नरसिंग यलमलवाड	अर्जदार क्र. 1	कोळी महादेव	19 / 09 / 2014
7	वय व अधिवास प्रमाणपत्र	पुजा नरसिंग यलमलवाड	अर्जदार क्र. 1	---	07 / 12 / 2012
8	विद्यार्थी प्रवेश व निर्गम उत्तरा	अनुप नरसिंगराव यलमलवाड	भाउ	कोळी महादेव	14 / 06 / 2010
9	जातीचे प्रमाणपत्र (ग्रामसेवक)	नरसिंग इरन्ना यलमलवाड	अर्जदार क्र. 3	कोळी महादेव	17 / 09 / 2014
10	ओळखपत्र व रहिवाशी प्रमाणपत्र	नरसिंग इरन्ना यलमलवाड	अर्जदार क्र. 3	---	17 / 09 / 2014
11	जातीचे प्रमाणपत्र (तलाठी)	नरसिंग इरन्ना यलमलवाड	अर्जदार क्र. 3	कोळी महादेव	24 / 09 / 2014
12	जातीचे प्रमाणपत्र (सरपंच)	नरसिंग इरन्ना यलमलवाड	अर्जदार क्र. 3	कोळी महादेव	17 / 09 / 2014
13	जातीचे प्रमाणपत्र (पोलीस पाटील)	नरसिंग इरन्ना यलमलवाड	अर्जदार क्र. 3	कोळी महादेव	16 / 09 / 2014
14	मृत्यु प्रमाणपत्र	इरन्ना सायबु यलमलवाड	आजोबा	---	14 / 09 / 2012
15	जात वैधता प्रमाणपत्र	बालाजी बाबुराव यलमलवाड	चुलत चुलता	कोळी महादेव	19 / 05 / 2011
16	शपथपत्र (वैधताधारक)	बालाजी बाबुराव यलमलवाड	चुलत चुलता	---	29 / 10 / 2014
17	जात प्रमाणपत्र	सुहास नरसिंग यलमलवाड	अर्जदार क्र. 2	कोळी महादेव	06 / 06 / 2011
18	शपथपत्र (नमुना फ)	सुहास नरसिंग यलमलवाड	अर्जदार क्र. 2	---	20 / 02 / 2017
19	वय व अधिवास प्रमाणपत्र	सुहास नरसिंग यलमलवाड	अर्जदार क्र. 2	---	30 / 10 / 2014
20	विद्यार्थी प्रवेश व निर्गम उत्तरा	सुहास नरसिंग यलमलवाड	अर्जदार क्र. 2	कोळी महादेव	20 / 06 / 2005
21	विद्यार्थी प्रवेश व निर्गम उत्तरा	सुहास नरसिंग यलमलवाड	अर्जदार क्र. 2	कोळी महादेव	15 / 06 / 2009

22	शाळा सोडल्याचे प्रमाणपत्र	सुहास नरसिंग यलमलवाड	अर्जदार क. 2	कोळी महादेव	20/06/2005
23	आधार कार्ड	सुहास नरसिंग यलमलवाड	अर्जदार क. 2	---	---
24	विद्यार्थी प्रवेश व निर्गम उत्तरा	इरन्ना सायबु यलमलवाड	आजोबा	कोळी महादेव	22/07/1950
25	खासरा पाहणी पत्रक	सायबु नानाजी यलमलवाड	पंजोबा	कोळी महादेव	---
26	जात प्रमाणपत्र	नरसिंग इरन्ना यलमलवाड	अर्जदार क.3	कोळी महादेव	18/07/1991
27	शपथपत्र (नमुना फ)	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	---	24/09/2013
28	विद्यार्थी प्रवेश व निर्गम उत्तरा	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	कोळी महादेव	08/07/1980
29	विद्यार्थी प्रवेश व निर्गम उत्तरा	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	कोळी महादेव	13/06/1984
30	शाळा सोडल्याचे प्रमाणपत्र	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	कोळी महादेव	08/07/1991
31	सेवा पटाच्या पहिल्या पानांची झेरॉक्स प्रत	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	कोळी महादेव	---
32	ओळखपत्र व रहिवासी प्रमाणपत्र (सरपंच)	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	---	12/07/2013
33	जातीचे प्रमाणपत्र (पोलीस पाटील)	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	कोळी महादेव	13/07/2013
34	ओळख व रहिवासी प्रमाणपत्र (पोलीस पाटील)	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	---	13/07/2013
35	जातीचे प्रमाणपत्र (ग्रामसेवक)	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	कोळी महादेव	12/07/2013
36	ओळखपत्र व रहिवासी प्रमाणपत्र (ग्रामसेवक)	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	---	12/07/2013
37	जातीचे प्रमाणपत्र (तलाठी)	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	कोळी महादेव	11/07/2013
38	ओळखपत्र व रहिवासी प्रमाणपत्र (तलाठी)	नरसिंग इरन्ना यलमलवाड	अर्जदार क. 3	---	11/07/2013
39	जात प्रमाणपत्र	बालाजी बाबुराव यलमलवाड	चुलत चुलता	कोळी महादेव	10/07/1990

6) The documents in the name of grandfather of the petitioner Irranna records caste as 'Koli Mahadev'. The grandfather of the petitioner is admitted in the school on 22.7.1950. The said entry is pre-presidential notification entry. There appears to be one solitary entry recording caste as 'Koli' in the school record of Datta dated 17.8.1965, who appears to be son of Irranna. In the school record of Irranna, the caste is recorded as 'Koli Mahadev'.

7) Perusal of the Vigilance report and the judgment, it is clear that the entry of 'Koli Mahadev' is recorded in the school record of the grandfather of the petitioner dated 22.7.1950. The same will be having evidentiary value. Old Khastra Patrak of the period prior to 1955 records the caste as 'Koli Mahadev' as against the name of the great grandfather of the petitioner Saibu. The said entry is also not disputed by the committee in the judgment.

8) As observed by the Apex Court in the case of **Anand** (*supra*), the affinity is the corroborative piece of evidence. The overwhelming facts that 1950 school record of Irranna, grandfather of the petitioner, records caste as 'Koli Mahadev' and no suspicion in respect of this entry being taken by the Vigilance and/or Committee,

the impugned judgment is quashed and set aside. The Committee shall issue validity certificates to the petitioners of 'Koli Mahadev' Scheduled Tribe.

9) Rule is accordingly made absolute. No costs.

[R.N. LADDHA, J.]

[S.V. GANGAPURWALA, J.]

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