



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO.8412 OF 2019**

PIYUSH S/O DATTATRAYA SALUNKE ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA & OTHER ..RESPONDENTS

**WITH  
WRIT PETITION NO.10943 OF 2016**

DIKSHA D/O DATTATRAYA SALUNKE ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA & OTHER ..RESPONDENTS

**WITH  
CIVIL APPLICATION NO.8858 OF 2019  
IN  
WRIT PETITION NO.10943 OF 2016**

DIKSHA D/O DATTATRAYA SALUNKE ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA & OTHER ..RESPONDENTS

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Mr. Pratap V. Jadhavar and Mr. Omgashad B. Boinwad,  
Advocates for the Petitioners.

Mr. P. S. Patil, AGP for Respondents-State.

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**CORAM : S. V. GANGAPURWALA &  
MANGESH S. PATIL, JJ.**

**DATED : 01<sup>st</sup> AUGUST, 2019.**

**PER COURT:-**

1. The tribe claim of petitioners as Koli Mahadev, Scheduled Tribe is invalidated.

2. Mr. Jadhavar, learned counsel and Mr. Boinwad, learned counsel for petitioners submits that the entries in the school record of

petitioners, his father, uncles record caste as Mahadev Koli. The oldest entry is dated 15.07.1969 of the real uncle of the petitioner Ramdas Sakahari Salunke recording caste as Hindu Mahadev Koli. Consistently in all the records caste is recorded as Hindu Mahadev Koli except in case of one uncle namely Laxman Sakahari Salunke. His school entry is of 09.07.1973 recording caste as Hindu Koli. According to the learned counsel, the petitioners original place of residence is also within the scheduled area where the persons of Mahadev Koli, Scheduled Tribe used to reside. The learned counsel further submits that the affinity is not the litmus test. The learned counsel relied on the judgment of the Apex Court in case of **Anand Vs. Committee** reported in (2012) 1 SCC 113.

3. Mr. Patil, learned A.G.P. submits that there is a contra entry in the school record of the real uncle of petitioners namely Laxman Sakahari Salunke of the year 1973 recording caste as Hindu Koli. In view of the contra evidence, the affinity test becomes relevant. The petitioners are failed in affinity test. In view of the contra entry and the failure of the petitioners in the affinity test, the committee has rightly invalidated the tribe claim of petitioners.

4. In case of Piyush Dattatraya Salunke the following entries are undisputed:

अ. क्र.	नांव	शाळा/शिक्षण संस्थेचे नांव	प्रवेश क्रमांक	प्रवेश दिनांक	प्रवेश वर्ग	नेंदवलेली जात/जमात	उमेदवाराशी नाते	जन्म तारीख
१	पियुष दत्तात्रय साळुंके	श्रीमान गोकुळचंदजी प्राथ विद्यालय कोपरगांव जि.अ. नगर	८७६०	१/६/२००५	नवीन	हिंदू महादेव कोळी	उमेदवार	२९/१०/९८
२	दिक्षा दत्तात्रय साळुंके	श्रीमान गोकुळचंदजी प्राथ विद्यालय कोपरगांव जि.अ. नगर	८५८६	२९/७/२००४	चौथी	हिंदू महादेव कोळी	बहिण	१२/२/९६
३	रामदास सखाहरी साळुंके	जि.प.प्राथ शाळा पोहेगांव मुले ता. कोपरगांव, जि. अ. नगर	८/१००४	१५/७/९९	नवीन	हिंदू महादेव कोळी	चुलते	१०/५/६२
४	लक्ष्मण सखाहरी साळुंके	जि.प.प्राथ शाळा पोहेगांव मुले ता. कोपरगांव, जि. अ. नगर	९/७४८	९/७/७३	नवीन	हिंदू कोळी	चुलते	१/६/६७
५	बळासाहेब सखाहरी साळुंके	जि.प.प्राथ शाळा पोहेगांव मुले ता. कोपरगांव, जि. अ. नगर	१०/३८२	२६/६/७६	पहिली	हिंदू महादेव कोळी	चुलते	४/५/६९
६	दत्तात्रय सखाहरी साळुंके	जि.प.प्राथ शाळा पोहेगांव मुले ता. कोपरगांव, जि. अ. नगर	१०/९७८	१५/७/८१	पहिली	हिंदू महादेव कोळी	वडिल	१८/११/७३
७	सखाहरी धोंडिबा साळुंके	जि.प.प्राथ शाळा पोहेगांव मुले ता. कोपरगांव, जि. अ. नगर	शालेय	नोंदआढळु न	येत	नाही	आजोबा	१०/५/६२

5. In case of Diksha Dattatraya Salunke the following entries are placed on record:

Sr. No.	Nature of documents	Name	Caste recorded as	Document No. & Date	Relation with the Applicant	Remarks
1.	An affidavit about genealogy	Dattatraya Sakahari Salunke	Mahadev Koli	30/10/2012	Father	
2.	School Leaving Certificate issued by Head Master,	Diksha Dattatraya Salunke	Mahadev Koli	D.O.A. 29/07/2004	Self	

	Shriman Gokulchandagi Vidyalay, Primary School, Kopargaon.					
3.	Bonafide Certificate issued by Head Master, Shriman Gokulchandagi Vidyalay, Primary School, Kopargaon.	Diksha Dattatra ya Salunke	Mahadev Koli	D.O.A. 29/07/2004	Self	
4.	School Leaving Certificate issued by Principal, Shri. Sadguru Gangageer Maharaj Science, Gautam Arts & Sanjivani Commerce College, Kopargaon	Diksha Dattatra ya Salunke	Mahadev Koli	D.O.A. 12/07/2011	Self	
5.	General Register Extract issued by Head Master, Shriman Gokulchandagi Vidyalay, Primary School, Kopargaon.	Diksha Dattatra ya Salunke	Mahadev Koli	D.O.A. 29/07/2004	Self	
6.	Birth Certificate, issued by Mukhyadhikari Kopargaon Nagar Palika	Diksha Dattatra ya Salunke		D.O.Birth 12/02/1996	Self	
7.	School Leaving Certificate issued by Head Master, Z.P.	Dattatra ya Sakahari Salunke	Mahadev Koli	D.O.A. 15/07/1981	Father	

	School, Pohegaon, Tal. Kopargaon, Dist. Ahmednagar					
8.	General Register issued by Z.P. School, Pohegaon, Tal. Kopargaon, Dist. Ahmednagar	Dattatraya Sakahari Salunke	Mahadev Koli	D.O.A. 15/07/1981	Father	
9.	Caste Certificate issued by Executive Magistrate, Kopargaon, Dist. Ahmednagar	Dattatraya Sakahari Salunke	Mahadev Koli	No. 448/123 4/1991 Date. 29/06/1991	Father	
10.	Copy of Service Book's first page	Dattatraya Sakahari Salunke	Mahadev Koli		Father	
11.	School Leaving certificate issued by Principal Union Adyapak Vidyalay, Ahmednagar	Dattatraya Sakahari Salunke	Mahadev Koli	D.O.A. 22/08/1991	Father	
12.	School Leaving Certificate issued by Head Master, Z.P. School, Pohegaon, Tal. Kopargaon, Dist. Ahmednagar	Ramdas Sakahari Salunke	Mahadev Koli	D.O.A. 12/08/1969	Uncle	
13.	Caste Certificate issued by Executive Magistrate, Kopargaon	Ramdas Sakahari Salunke	Mahadev Koli	No. ST/SR/3 6/81 Date 1/08/1981	Uncle	
14.	School leaving certificate	Balasaheb	Mahadev Koli	D.O.A. 15/06/1	Uncle	

	issued by Head Master, Shree M.R. Autade Patil Vidyalay, Pohegaon, Tal. Kopargaon, Dist. Ahmednagar	Sakahari Salunke		981		
15.	Caste Certificate issued by Head Master, Shree M.R. Autade Patil Vidyalay, Pohegaon, Tal. Kopargaon, Dist. Ahmednagar	Balasaheb Sakahari Salunke	Mahadev Koli	D.O.A. 15/06/1981	Uncle	
16.	Bonafied Certificate issued by Head Master, S.G. Vidyalaya, Kopargaon	Salunke Piyush Dattatraya	Mahadev Koli	Gen. Regi. No.AO 9160	Brother	
17.	Caste Certificate Issued by Sub Divisional Officer, Sangamner Division, Sangamner	Salunke Piyush Dattatraya	Koli Mahadev	No/SDO/279/2011 Date-14/11/2011		
18.	School Leaving Certificate, issued by Head Master, Dr. C.M. Mehata Kanya Vidaymandir, Kopargaon, Dist. Ahmednagar	Salunke Nayana Ramdas	Mahadev Koli	No.SDO/279/2011 Date-14/11/2011	Cousin Sister	
19.	School Leaving Certificate issued by Head Master, Dr. C.M. Mehata Kanya	Salunke Pramod Laxman	Mahadev Koli	D.O.A. 12/06/2000	Cousin Brother	

	Vidaymandir, Kopargaon, Dist. Ahmednagar					
20.	School Leaving Certificate issued by Head Master, Z.P. School, Pohegaon, Tal. Kopargaon, Dist. Ahmednagar	Sanket Balasaheb Salunke	Mahadev Koli	D.O.A. 02/06/2005	Cousin Brother	
21.	Death Certificate issued by Registrar Pohegaon, Tal. Kopargaon, Dist. Ahmednagar	Sakahari Dhondiba Salunke		30/11/1998	Grandfather	
22.	Caste Certificate issued by Tahasildar and Executive Magistrate, Nagar Taluka, Dist. Ahmednagar	Prakash Eknath Salunke	Mahadev Koli	No.MAG/SR/1552 Date-1/07/1985	Cousin Brother	
23.	School Leaving certificate issued by Head Master, Z.P. School, Babhulshet, K. loni (khurd) Tal. Vaijapur	Salunke Sitaram Trimbakrao	Koli Mahadev	D.O.A. 3/07/1979	Cousin Uncle	
24.	Caste Certificate issued by Executive Magistrate, Vaijapur	Dnyaneshwar Fakira Salunke	Koli Mahadev	No.MAG/WS/3117 Date-7/02/1994	Cousin Grandfather	
25.	School leaving certificate issued by Head Master, Z.P. School,	Jyoti laxman Salunke	Mahadev Koli	D.O.A. 15/12/1993	Cousin Sister	

	Samkhindi, Tal Sangamner					
26.	Caste Certificate issued by Executive Magistrate, Kopergaon	Gangadhar Kachru Salunke	Koli Mahadev		Cousin Grandfather	
27.	Death Certificate issued by Registrar, Madhi, Tal Kopergaon	Gangadhar Kachru Salunke	Koli Mahadev	3/12/2005	Cousin Grandfather	
28.	Copy of Sevice Book first page	Anil Eknath Salunke	Mahadev Koli	---	Cousin Brother	
29.	Copy of judgment of Bombay Bench at Aurangabad in WP No.4258/1994	In case of Anil Eknath Salunke Vs. State of Maharashtra	---	28/10/1994	Cousin Brother	

6. The vigilance has been conducted. The vigilance cell did not find interpolation in any of the entry in the school record of the petitioners and their relatives except one isolated entry of school record of uncle of the petitioners namely Laxman Sakahari Salunke of the year 1973. All entries from 1969 record caste as Mahadev Koli.

7. The Apex Court has also in case of **Anand Vs. Committee** (supra) held that the affinity is not litmus test.

8. Considering all the aforesaid aspects of the matter that is consistent entries since the



year 1969 in the school records of the petitioners, their father, uncles, relatives as Mahadev Koli barring one isolated entry of the year 1973 and also considering the original place of residence of petitioner, we pass the following order:

**ORDER**

- i. The impugned order is quashed and set aside.
- ii. The committee shall issue validity certificate to petitioners of Koli Mahadev, Scheduled Tribe immediately.

9. Writ Petitions are disposed of. No costs.

10. In view of disposal of writ petitions, present civil application stands disposed of.

**(MANGESH S. PATIL)**  
**JUDGE**

**(S. V. GANGAPURWALA)**  
**JUDGE**

Devendra/August-19