

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.2691 OF 2022

Latabai D/o Maharu Koli @  
Latabai W/o Chandrakant Sonawane,  
Age 51 years, Occu. Social Work / Agri.,  
R/o 396, Jaikisanwadi, Jalgaon,  
Tq. & District Jalgaon.

... **Petitioner**

Versus

1. The State of Maharashtra,  
Through its Principal Secretary,  
Ministry of Social Justice,  
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate  
Scrutiny Committee, Nandurbar,  
Through its Member Secretary.
3. Jagdishchandra S/o Ramesh Valvi,  
Age 58 years, Occu. Agri.,  
R/o Plot No.1, Old Yawal Road,  
Chopda, Tq. Chopda,  
District Jalgaon.
4. Arjunsing Biyantsing Vasave,  
Age 60 years, Occu. Business – Ex. M.L.A.,  
R/o Samata Housing Society,  
Baherpura, Nandurbar,  
Tq. and District Nandurbar.
5. The Jalgaon Municipal Corporation,  
Jalgaon, Through its Commissioner,  
Tq. and District Jalgaon.

... **Respondents**

...  
Advocate for Petitioner: Mr. R. N. Dhorde (Senior Counsel) i/b  
Mr. V. R. Dhorde, Mr. Vasant Bholankar and Mr. P. S. Dighe.  
G.P for Respondents-State: Mr. D. R. Kale.  
Advocate for Respondent Nos.3 & 4: Mr. V. D. Sapkal (Senior  
Counsel) i/b Mr Y. B. Bolkar.  
Advocate for Respondent No.5 : Mr. V. D. Gunale.

...

**CORAM: R. D. DHANUKA, AND  
S. G. MEHARE, J.J.**

**RESERVED ON : 13.04.2022  
PRONOUNCED ON : 10.06.2022**

**JUDGMENT : (Per S. G. Mehare, J.):-**

1. Rule. Learned Government Pleader waives service of notice for respondents Nos.1 and 2. Learned senior counsel Mr. Sapkal waives service of notice for respondents Nos.3 and 4. Mr. Gunale, the learned Counsel, waives service of notice for respondent No.5.

2. Rule is made returnable forthwith. By the consent of the parties heard finally.

3. The petitioner is elected Member of the Legislative Assembly. She takes exception to the judgment and order passed by respondent No.2 (Committee) dated 09.02.2022 invalidating her claim of "Tokre Koli" Scheduled Tribe.

4. The facts of the case, in a narrow compass, are that the petitioner was elected Corporator for Jalgaon Municipal Corporation on the Scheduled Tribe reserved seat. Her caste certificate was forwarded to the Committee for validation. Meantime, she contested the election for Legislative Assembly

from the Chopda constituency and was elected. She then resigned from the post of the Corporator. However, her caste claim, registered after her proposal for validation after her election as Corporator, was pending. In the said case, respondent No.2 had called a Villigence Report. She was called upon to submit her explanation to the said report. However, instead of replying to the said report, she insisted on deciding on her application for withdrawal of the proposal. Since she did not file her reply, the Scrutiny Committee / respondent No. 2 invalidated her claim by order dated 04.11.2020.

5. The petitioner impugned the said judgment and order in Writ Petition No.7721/2020. By order dated 03.12.2020, in Writ Petition No.7721/2020, this Court directed the petitioner to resubmit the tribe certificate issued by the competent Authority, i.e. Sub Divisional Officer, Amalner, before the Committee within seven days and further directed to decide the validation proceedings of the petitioner expeditiously and preferably within a period of four months. The order passed by this Court in Writ Petition No.7721 of 2020 was challenged by respondent No.3 before the Honourable Supreme Court vide Special Leave Petition (Civil) No.15997 of 2020.

6. The petitioner had also filed Special Leave Petition (Civil) No.8632 of 2021 against the same order. However, in the meantime, the petitioner approached this Court by Writ Petition No.3909 of 2021, praying for transfer of the validation proceedings from the Nandurbar Committee to any other Committee. The said petition was dismissed. Special Leave Petition filed against the orders passed by this Court in Writ Petition No.7721 of 2020 was dismissed by the Hon'ble Supreme Court on 07.12.2021 with a direction to the respondent No.2-Committee to decide the proceedings within four (4) months from the date of the order.

7. Respondent No.3/the objector, filed an objection on the caste claimed by her before the Scrutiny Committee. Respondent No.3 had filed Writ Petition No.14645 of 2019 before this Court seeking a direction to decide the tribe claim at the earliest.

8. Pursuant to the orders of this Court in W.P. 7721 of 2020, the petitioner presented her fresh application for caste validation on 09.12.2020. Respondent No.2 perused the caste proposal and decided to call for a Vigilance Report. The Vigilance Cell filed 1068 pages report on 19.05.2021. After taking every chance to prolong the say to the said Vigilance

Report, the petitioner finally submitted her explanation to the said report on 20.08.2021.

9. Respondent No.3 filed Contempt Petition No.346 of 2021, alleging non-compliance of the directions issued in Writ Petition No.7721 of 2020. This Court, on the statement of A.G.P, issued directions to expedite the proceedings. In the said contempt proceedings, the petitioner was not a party. Hence, she filed another Writ Petition No.9228 of 2021 for recalling the order dated 05.08.2021. This Court also disposed of the said petition on 15.09.2021. Finally, respondent No.2 passed the impugned order.

10. The petitioner has raised various grounds in her explanation submitted to the Vigilance Report and the opinion of the Research Officer. The explanation in detail has been given on the factual aspects.

11. We have heard the learned Senior Counsel Mr. Dhorde for the petitioner, the learned Government Pleader for respondent Nos.1 and 2, learned Senior Counsel Mr. Sapkal, representing the complainant-respondent Nos.3 and 4 and learned counsel Mr. Gunale for respondent No.5 at length. We

have perused the record with the assistance of the learned Counsel appearing for the respective parties.

12. In support of the contention of the tribe claim, the petitioner placed on record 61 documents in all. The petitioner relied on pre-independence and post-independence school admission registers and the School leaving certificates of her forefathers and close relatives. She also relied on the Birth and Death certificates of her relatives of pre-independence. The pre-independence documents were in Modi Script and translated by an expert translator. She also filed the affidavits of the persons with similar surnames stating that they were not her relatives. She specified the serial numbers in the vigilance report, which were not her relatives.

13. The Vigilance Cell has also collected around 123 documents and has done a profound fact-finding. The Vigilance Cell submitted the report that in birth and death entries from 1880 to 1967, except for few blood relatives, mostly the caste entries of Koli, Hindu Koli, Hindu Suryawanshi Koli, Hindu Koli Other Backward Class, are against the claim of Tokre Koli. The Vigilance Cell has specifically opined that the entries of the blood relatives of the applicant from 1880 to 1981 were of Tokre Koli. The Committee has recorded a finding that there

are contra entries. Respondent No.2 described pre-independence entries and arrived at the conclusion that there are many contra entries. Hence, the petitioner failed to prove that she belongs to the "Tokre Koli" tribe and lastly invalidated the claim declaring her certificate issued by the Sub-Divisional Officer, Amalner, District Jalgaon invalid.

14. Mr. Dhorde, learned senior Counsel for the petitioner, has vehemently argued that the Scrutiny Committee, while scrutinizing the tribe claim of the petitioner, has admitted the availability of the record of the close blood relatives. However, the same has been brushed aside, observing that there is also a number of other contra entries of the close blood relatives of the petitioner. Instead of quality and receivable evidence, the Scrutiny Committee has erroneously given more weightage to the quantity of the documents. The Scrutiny Committee has conveniently discarded the oldest entries. The Committee ought to have accepted the evidence of the birth and death registers of 1880 and 1881, which mentions the "Tokre Koli" caste.

15. It is submitted that the Committee has not assigned the reason for refusing to accept such oldest entries on record. The Committee has utterly failed to consider the reply filed by the

petitioner to the Vigilance Cell Report. The Modi script entries are the oldest record. Those entries were unchallenged, so the Scrutiny Committee ought to have considered those documents. The said record does not create any doubt. The Scrutiny Committee has misunderstood the genuineness of the document and unnecessarily fell prey to the allegations made by respondents Nos.3 and 4, who are the rival contestants of the petitioner. The Vigilance Cell Report is also biased and prepared by a person / Officer not competent to carry out the vigilance report.

16. It is submitted that the affinity test is not the litmus test, and certainly, the documentary evidence would prevail over the so-called affinity test. Hence, though the petitioner's case was strong enough based on the documents, the affinity test has been given extreme importance. The Vigilance Cell was not constituted as per Section 10 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and verification of) Caste Certificate Act, 2000 (For short 'the said Act'). He relied on few case laws.



17. Per contra, the learned Government Pleader, Mr. Kale argued that the Vigilance Cell Officer has intensely scrutinized the death and birth and school record produced by the petitioner. The Vigilance Cell Officer has collected the copies of the original school record and got it translated by Mr. Papat Sitaram Thorat, an authorized translator. The Vigilance Cell has collected the relevant documents to verify the genuineness and authenticity of the documents relied upon by the petitioner. There are contra entries in the old documentary record, in school record and some of the death and birth entries. He supported the impugned order.

18. Learned Senior Counsel Mr. Sapkal for respondents Nos.3 and 4 has vehemently opposed the grounds raised by the petitioner. He has pointed out that a large number of entries since pre-independence of blood relatives are of the "Koli" caste. He would refer to around 107 such birth and death entries. The School leaving certificate of the petitioner shows "Hindu Other Backward" caste, and her father's School leaving certificate shows the caste as "Koli". The old school record of the petitioner, if considered, apparently raises a doubt about the admission of her forefathers to pre-primary class at a higher age and mostly after attaining the age of majority.

Admissions to the School at higher age do not appeal to a prudent man's mind to believe it to be genuine.

19. It is submitted that the translated copies of the Modi script produced by the petitioner cannot be accepted or received in evidence unless the original document from which it is translated is produced on record. The translated copy produced by the petitioner states that the same was translated and not prepared from the original document. Dilip Eknath Koli, Punju Arjun Baviskar and Shantaram Soma Baviskar, who executed affidavits in her favour, have no relation with the petitioner is not correct. The genealogy of more than 200 names cannot be disbelieved. This evidence was genuinely brought by the Vigilance Cell. Out of these 200 and more names, none of them has been issued a validity certificate. The validity relied upon by the petitioner was permitted by the High Court to his brother/validity holder to obtain a caste certificate of Special Backward Class. Hence, not a single validity holder is found in the family tree.

20. It is submitted that if the case of the petitioner is accepted and a certificate of validity is granted to the petitioner, then the entire village would get the certificate of validity. There is no bar for the appointment of the retired

Superintendent of Police as a Vigilance Officer. He was appointed following the due procedure of law. While determining the validity and legality of the judgment passed by the Scrutiny Committee, the High Court, while exercising the writ jurisdiction under Article 226 of the Constitution of India, cannot sit in appeal over the findings recorded by the fact-finding authority. To support his arguments, learned senior Counsel Mr. Sapkal would rely on the case of ***S. Nagrajan Vs. District Collector Salem and others, (1997) 2 SCC 571***, wherein the Supreme Court laid down the law on the scope of the High Court's interference with the findings reached in an inquiry that the High Court could not act as a court of appeal to appreciate the evidence itself. The ratio laid in the above case needs no discussion.

21. It is submitted that there is contra evidence which raises serious doubts about the genuineness of the petitioner's claim. The Committee has considered each document in proper perception. He supported the impugned judgment and order and prayed to dismiss the petition. To bolster his argument, he relied on the case of ***Union of India Vs. Alok Kumar with other Civil Applications (2010) 5 SCC 349***. He has also argued that no documents were placed on record in the earlier round of

litigation. The documents relied on now are created documents. He raises serious doubt about the genuineness of such documents. The contra evidence is of the contemporary period. Hence, the Scrutiny Committee has rightly relied on the contra evidence and discarded the claim of the petitioner correctly. A large number of contra entries are available that disprove the claim of the petitioner.

22. Mr. Gunale, learned Counsel for respondent No.5, has adopted the argument advanced by learned senior Counsel Mr. Sapkal.

23. **REASONS AND CONCLUSIONS :-**

The petitioner has relied on the following school record to prove her claim.

Sr. No.	Name of Document	Name of person on the document	Relation with Applicant	Caste entry	Year of evidence
1	Extract of School Admission General Register No.918/4	Latabai Maharu Koli	Applicant	Hindu (O.B.C.)	Date of Birth 01.06.1970 Admission year 1976
2	Extract of School Admission General Register No.137/6	Maharu Keshav Koli	Father	Koli	Date of birth 15.12.1933 Date of admission 02.01.1939
3	Village Form No.14 birth	Maharu Keshav	Father	Koli	Date of birth 02.03. 1932

	entry	Khandu Koli			
4	Village Form No. 14 death entry	Keshav Khandu Koli	Grand-father	Hindu	Date of Death 10.11.1960
5	Extract of birth Yawal Nagar Parishad	Keshav Khandu Koli Sanpulekar (son)	Uncle	Tokre Koli	Date of birth 21.06.1928
6	Extract of birth Yawal Nagar Parishad	Keshav Khandu Koli Sanpulekar (daughter)	Aunt	Tokre Koli	Date of birth 04.07.1930
7	School Leaving Certificate sr.no. 148 General Register No. Modi Lipi R. No. 02	Keshav Khandu Baviskar	Grand-father	Tokre Koli	Date of birth 07.06.1904 Date of admission 01.04.1920
8	School Leaving Certificate sr.no. 150 General Register No. Modi Lipi R. No. 25	Supdu Khandu Baviskar	Cousin grand-father	Tokre Koli	Date of birth 05.05.1901 Date of admission 25.04.1922
9	School Leaving Certificate sr.no. 155 General Register No. Modi Lipi R. No. 21	Yeso Khandu Baviskar	Cousin grand-father	Tokre Koli	Date of birth 08.01.1908 Date of Admission 21.04.1922
10	School Leaving Certificate sr.no. 151 General Register No. Modi Lipi R. No. 01	Ketu Kalu Baviskar	Cousin grand-father	Tokre Koli	Date of birth 09.05.1900 Date of Admission 01.04.1920
11	School Leaving Certificate sr.no. 149 General Register No. Modi Lipi R. No. 34	Rahula Trimbak Baviskar	Cousin grand-mother	Tokre Koli	Date of birth 07.06.1908 Date of Admission 01.04.1923
12	Leaving Certificate	Tukadu Trimbak	Cousin grand-	Tokre Koli	Date of birth 07.07.1901

	sr.no. 156 General Register No. Modi Lipi R. No. 13	Baviskar	father		Date of Admission 04.04.1921
13	School Leaving Certificate sr.no. 147 General Register No. Modi Lipi R. No. 09	Bhoju Kalu Baviskar	Cousin grand-father	Tokre Koli	Date of birth 06.01.1905. Date of Admission 01.04.1921
14	School Leaving Certificate sr.no. 153 General Register No. Modi Lipi R. No. 32	Zipru Kalu Baviskar	Cousin grand-father	Tokre Koli	Date of birth 09.07.1909. Date of Admission 01.04.1923
15	School Leaving Certificate sr.no. 145 General Register No. Modi Lipi R. No. 24	Mukta Khandu Koli	Cousin grand-mother	Tokre Koli	Date of birth 07.01.1910. Date of Admission 22.04.1922
16	School Leaving Certificate sr.no. 158 General Register No. Modi Lipi R. No. 47	Huna Lahanu Baviskar	Cousin-cousin grand-father	Tokre Koli	Date of birth 20.02.1912. Date of Admission 21.06.1924
17	School Leaving Certificate sr.no. 146 General Register No. Modi Lipi R. No. 06	Ram Dagdu Baviskar	Cousin cousin uncle	Tokre Koli	Date of birth 03.05.1914. Date of Admission 01.03.1921
18	School Leaving Certificate sr.no. 152 General Register No. Modi Lipi R. No. 45	Arjun Dagdu Baviskar	Cousin cousin uncle	Tokre Koli	Date of birth 16.12.1914. Date of Admission 17.06.1924
19	School Leaving Certificate sr.no. 154	Govinda Dagdu Koli	Cousin cousin uncle	Tokre Koli	Date of birth 03.01.1916. Date of

	General Register No. Modi Lipi R. No. 26				Admission 26.04.1922
20	School Leaving Certificate sr.no. 157 General Register No. Modi Lipi R. No. 10	Sona Kawtak Koli	Cousin cousin grand-father	Tokre Koli	Birth date 07.01.1901 Date of admission 01.04. 1921
21	Extract of School Admission General Register No.1 Bu. No.--	Lotu Kanhu Baviskar	Cousin grand-father	Tokre Koli	Date of Birth 09.05.1900 Date of admission 01.04.1920
22	Extract of School Admission General Register No. 13.	Khudku Trimbak Baviskar	As per Geneology, no blood relative	Tokre Koli	Date of Birth 07.07.1901 Date of admission 04.04.1921
23	Extract of School Admission General Register No. -- Bu. No.01	Pundlik Huna Baviskar	Cousin cousin uncle	Hindu Koli	Date of birth 20.05.1939 Date of admission 28.05.1945
24	Extract of School Admission General Register No.95 Bu. No.02	Vajantabai d/o Arjun Koli	Cousin niece	Hindu Koli	Date of birth 01.06.1942 Date of Admission 15.06. 1955
25	Extract of School Admission General Register No. 80 Bu. No.02	Mahadu Shankar Koli	Cousin brother	Hindu Koli	Date of birth 01.06.1942 Date of admission 15.06.1955
26	Extract of School Admission General Register No. 64 Bu. No.02	Baliram Ramchandra Baviskar	Cousin cousin uncle	Hindu Koli	Date of birth 20.04.1947 Date of admission __.06.1954
27	Extract of School Admission	Narayan Ramchandra Baviskar	Cousin cousin uncle	Hindu Koli	Date of birth 20.06.1948 Date of

	General Register No. 65 Bu. No.02				admission ___.06.1954
28	Extract of School Admission General Register No.23 Bu. No.02	Tarachand Amrut Koli	Cousin uncle	Hindu Koli	Date of birth 01.01.1946 Date of admission - 01.08.1951
29	Extract of School Admission General Register No.38 B. No.02	Sitaram Huna Koli	Cousin cousin uncle	Hindu Koli	Date of birth 01.10.1946 Date of admission - 10.03.1952
30	Extract of School Admission General Register No. 25 Bu. No.01	Amrut Lahanu Koli	Cousin cousin grand-father	Koli	Date of birth 05.03.1918 Date of Admission - 16.03.1925
31	Extract of School Admission General Register No.___ Bu. No.01	Govinda Dagdu Koli	Cousin cousin uncle	Koli	Date of birth 03.01.1916 Date of Admission - 16.03.1925
32	Extract of School Admission General Register No.53 Bu.No.01	Rupchand Rajaram Koli	Cousin brother	Hindu Koli	Date of birth 15.04.1925 Date of Admission - 07.06.1933
33	Extract of School Admission General Register No.199 Bu.No.01	Tanku Shamrao Koli	Cousin brother	Koli	Date of birth 15.10.1931 Date of Admission - 19.11.1937
34	Extract of School Admission General Register No.160 Bu.No.01	Bhavlal Shankar Koli	Cousin brother	Koli	Date of birth 15.04.1933 Date of Admission - 08.06.1940
35	Extract of School Admission General	Tulshiram Yadav Koli	Cousin brother	Hindu Koli	Date of birth 06.08.1934 Date of Admission -



	Register No.196 Bu.No.01				01.07.1941
36	Extract of School Admission General Register No.196 Bu.No.02	Sukdeo Keshav Koli	Uncle	Hindu Koli	Date of birth 14.05.1934 Date of Admission – 01.07.1941
37	Extract of School Admission General Register No.99 Bu.No.02	Bhoju Huna Koli	Cousin cousin brother	Hindu Koli	Date of birth 17.01.1935 Date of Admission – 14.01.1941
38	Extract of School Admission General Register No.229 Bu.No.01	Soma Ramchandra Bavuskar	Cousin cousin uncle	Hindu Suryawas hi Koli	Date of birth 01.06.1937 Date of Admission —
39	Extract of School Admission General Register No.93 Bu.No.01	Tukaram Kitkul Bavuskar	Cousin brother	Koli Suryawas hi	Date of birth 11.08.1938 Date of Admission – 01.06.1944
40	Extract of School Admission General Register No.100 Bu.No.01	Yadav Ramchandra Bavuskar	Cousin cousin uncle	Hindu Suryawas hi	Date of birth 30.12.1938 Date of Admission – 09.06.1944
41	Extract of School Admission General Register No.111 Bu.No.01	Pundlik Huna Bavuskar	Cousin cousin uncle	Hindu Suryawas hiKoli	Date of birth 20.05.1939 Date of Admission – 28.05.1945
42	Extract of School Admission General Register No.192 Bu.No.01	Natu Shyamrao Koli	Cousin brother	Hindu Koli	Date of birth 20.01.1935 Date of Admission – 24.06.1941
43	Extract of School Admission General Register	Sunanda Maharu Koli	Sister	Hindu Backward	Date of birth 01.06.1968 Date of Admission – 20.06.1974

	No.845/4				
44	Extract of School Admission General Register No.303 Bu.No.02	Eknath Shankar Koli	Cousin brother	Hindu Suryawas hiKoli	Date of birth 01.05.1954 Date of Admission - 1960
45	Extract of School Admission General Register No.____ Bu.No.02	Sushilabai Maharu Koli	Sister	Hindu Suryawas hiKoli	Date of birth 31.05.1955 Date of Admission - 1969
46	Extract of School Admission General Register No.292 Bu.No.02	Narayan Ramchandra Baviskar	Cousin cousin uncle	Hindu Koli	Date of birth 20.06.1944 Date of Admission - 02.06.1960
47	Extract of School Admission General Register No.253 Bu.No.02	Vatsalabai Nathu Koli	Cousin sister	Hindu Suryawas hiKoli	Date of birth 01.06.1951 Date of Admission - 02.06.1959
48	Extract of School Admission General Register No.256 Bu.No.02	Dagubai Shankar Koli	Cousin sister	Hindu Suryawas hiKoli	Date of birth 01.06.1951 Date of Admission - 02.06.1959
49	Extract of School Admission General Register No.263 Bu.No.02	Ushabai Khandu Baviskar	Cousin grand-mother	Hindu Suryawas hiKoli	Date of birth 01.06.1953 Date of Admission - __.06.1960
50	Extract of School Admission General Register No.185 Bu.No.02	Punju Arjun Koli	Cousin cousin uncle	Hindu Koli	Date of birth 01.06.1950 Date of Admission __.07.1957
51	Extract of School Admission General Register No.215 Bu.No.02	Suklal Khandu Bavuskar	Cousin grand-father	Hindu Suryawas hiKoli	Date of birth 01.01.1936 Date of Admission - _____

52	Extract School Admission General Register No.1213/4	of	Shobha Maharu Baviskar	Sister	Hindu Koli (Other Backward )	Date of birth 01.06.1977 Date of Admission - _____
53	Extract School Admission General Register No.1742/5	of	Manisha Sahebrao Baviskar	Niece	Hindu Tokre Koli (She.tra.)	Date of birth 01.05.1986 Date of Admission - _____
54	Extract School Admission General Register No.1832/5	of	Rekhabai Sahebrao Baviskar	Niece	Hindu Tokre Koli (She.tra.)	Date of birth 01.06.1989 Date of Admission - 07.06.1995
55	Extract School Admission General Register No.2103/5	of	Dhanraj Sahebrao Baviskar	Nephew	Hindu Tokre Koli (She.tra.)	Date of birth 01.06.1993 Date of Admission - 13.06.2000
56	Extract School Admission General Register No.2378	of	Kalyani Sahebrao Koli	Niece	Hindu Tokre Koli (She.tra.)	Date of birth 05.06.1999 Date of Admission - 09.06.2005
57	Extract School Admission General Register No.2248	of	Archana Sahebrao Baviskar	Niece	Hindu Tokre Koli (She.tra.)	Date of birth 01.06.1997 Date of Admission - 04.06.2003
58	Extract School Admission General Register No.2469/6	of	Kailas Sahebrao Koli	Nephew	Hindu Tokre Koli (She.tra.)	Date of birth 07.03.2001 Date of Admission - 15.06.2007
59	Extract School Admission General Register No.1065/4	of	Rajendra Punju Koli	Cousin cousin nephew	Hindu Backward Tokre Koli	Date of birth 01.06.1974 Date of Admission - 16.06.1980
60	Extract	of	Raghunath	Cousin	Hindu	Date of birth

	School Admission General Register No.1255/5	Punju Koli	cousin nephew	Tokre Koli (She.tra.)	01.12.1978 Date of Admission - 29.06.1984
61	Extract of School Admission General Register No.2761	Balaji Punju Koli	Cousin cousin nephew	Hindu Tokre Koli S.T.	Date of Birth 08.06.1979. Date of Admission -12.08.1992

24. All the above documents were referred to by respondent No.2 while determining the claim of the petitioner.

25. Mr. Dhorde, learned Senior Counsel for the petitioner, referred to the documents mentioned in the chart on page 338, which are the translated copies of the documents from Modi script on page 317 onwards. He took us through the findings of respondent No.2 on page No.35, of the impugned judgment and argued that respondent No.2 had not doubted the genuineness of the entries in the School record. In the absence of concrete evidence, such an old record cannot be thrown away by the authority when it has recorded the findings that the pre-independence documents have a probative value.

26. Respondent No.2 referred to 18 entries from the above chart and recorded the finding that the caste 'Tokare Koli' is recorded in the school register. These entries are in the name of the petitioner's grandfather, cousin grandfather, cousin

cousin grandfather, cousin cousin uncle etc. The columns of these documents, i.e. original records, are in Marathi, Gujrathi and Telugu languages. However, they are shown admitted to Balvarga (Pre Primary/Kindergarten). All these entries are in Modi script. Respondent No.2 has discarded the old record assigning the reason that except the above evidence, most of the caste record collected by the Vigilance Cell is of the caste, Koli, Hindu Koli, Hindu Suryavanshi Koli and Hindu Koli other backward, and these are the contra entries. The respondent No.2 accordingly opined that the petitioner did not belong to "Tokare Koli" caste.

27. The objection has been raised by the learned senior Counsel Mr. Sapkal that considering the date of birth and the date of admission of the relatives in the schools relied upon by the petitioner seriously raises a doubt that the children cannot be admitted at such an upper age in Pre Primary / Kindergarten. Further, the objection is raised that the original record from which this translation is made is not brought before the Committee.

28. So far as the issue raised by the respondent Nos.3 and 4 that petitioner did not produce the record is concerned, the record before respondent No.2 reveals that respondent No.2

has relied upon the evidence collected by the Vigilance Cell. The Vigilance Report reveals that the Vigilance Officer has collected the colour copies of the school record prepared from the original record kept in Modi script and also sent him a questionnaire. The Head Master of Zilla Parishad Primary School of village Sonpule provided him with the documents as sought and replied that there was only one register in Modi script, and it was not rewritten. He had supplied the information from the original record. Considering the response of the Head Master to his letter dated 17.03.2021, the possibility of fake entries and rewriting the incorrect record is ruled out. The evidence collected by the Vigilance Cell is free from doubt. Hence, we do not accept the argument of learned senior counsel Mr. Sapkal that, in the absence of original before the Committee without anybody's request to produce the same, is a serious infirmity.

29. It has also been objected by learned senior counsel Mr. Sapkal that in her previous application for validation after she was elected as a Corporator of Municipal Corporation, Jalgaon, the documents filed in the present petition were not filed with that petition. He raises a doubt that the documents filed by the petitioner in the present case were prepared afterthought.

Hence, the record of earlier Writ Petition No.7721 of 2020 was called to verify whether the documents relied upon by the petitioner were filed in the earlier validation proceeding.

30. The paper book of the said writ petition No.7721/2020 reveals that the copies of the School leaving certificates along with the general Admission registers of the relatives of the petitioner at serial Nos.7 to 20 given in the above chart having pre-independence date of birth were placed on record. Those documents bear the endorsement that they are prepared from the registers written in Modi script. So we do not see the objection as relevant.

31. Learned senior counsel Mr. Sapkal further argued that the genuineness of the documents referred to above falls under the shadow of a doubt as the admissions of the relatives of the petitioners are at the upper age, that too in Balvarga and is unnatural. A show cause notice dated 28.05.2021 was served upon the petitioner calling upon the explanation against the adverse / contra entries of the caste.

32. Perused the reply to the show cause notice dated 28.05.2021 filed by the petitioner. The petitioner has denied all the adverse allegations levelled against her. As regards clause

(a) of the show cause, she has explained that in so far as the school record of her father and grandfather showing their caste as "koli" and "Hindu Koli" is concerned the said entries are not older than the entries obtained by the Vigilance Cell. As regards clause (b), she explains that the Vigilance Cell ought to have brought the primary evidence of school admission. The secondary evidence cannot be relied on by the authority.

33. As regards clause (c), she has explained that pre-independence caste entries have probative value. Regarding clauses (d) and (e), she has explained that none of the committee members has alleged that her blood relatives' caste entries are either Koli or Suryavanshi Koli have been picked up and chosen without considering the efficacy of birth as well as the school record. So far as clause (f) is concerned, she has stated the same reason as above. For clause (g), she stated that the Vigilance Cell did not utter a single word about the genuineness, correctness and authenticity of the school entries. No evidence is collected to vouchsafe the correctness of the alleged adverse entries. Moreover, in the old days, census instructions prevailed upon the authorities to record the caste by its broad nomenclature, and judicial notice of it has been taken by the Apex Court in the case of Madhuri Patil.



34. As regards the clause (h) of the show cause notice, she has requested to call for its original record for its veracities. For clause (i), it has been explained that there is no statement of the Head Master recorded by the Vigilance Officer Mr. Y. G. Pagare. He was not appointed by the State Government. So far as the clause (j), it has been explained that during the British regime and pre-independence era, her relatives, parents and guardians were not inclined to take education due to extreme poverty or illiteracy. Therefore, the date of admission of her relatives in the School whose caste has been mentioned as "Tokre Koli" indisputably does not matter when this Committee has been constituted to verify tribe claims and not to bank upon the technicality.

35. As regards clause (k), she has stated that her uncle Govinda Dagadu was admitted to the School in 1922. His caste had been mentioned as "Tokre Koli" in Modi script. However, while carrying forward in another school record in 1925 same had been taken simply as "Koli" for which he or she cannot be blamed. For clause (l), she has stated that the caste of his uncle Ramu Dagadu Koli has been mentioned as 'Koli" in the birth record. However, when he was admitted to School in 1921, his caste was mentioned as "Tokar Koli". So far as the difference in

the date of birth and School record, she explained that no care was taken due to widespread poverty, illiteracy etc. Even now, most of the students are admitted to the School in the month of June, and their birth dates are mentioned as 1<sup>st</sup> June, which is within a special knowledge of the Committee. Nothing prevented the Vigilance Cell from taking up the matter before the higher authority to make the school record available in Modi script.

36. Petitioner has admitted that the persons listed at serial Nos.1 to 17, 26, 28, 35, 40, 41, 43, 44, 45, 46, 47, 62, 64 to 66, 68, 72 and 73 are the only her blood relatives from her paternal side.

37. Petitioner has specifically denied that the list of persons given at page Nos.19 to 44 of the vigilance report except the persons at serial Nos.80, 82, 84, 104, 120, 124, 131, 140, 147, 151, 159, 166, 169, 175, 177, 180, 186, 190, 191, 198, 204 to 211, 213 to 216, 218, 219, 222, 223, 225, 226, 228 to 233, 236, 237, 240 and 241 are not related to her from her paternal side. The vigilance report is assailed in sum and substance, having not been carefully investigated.

38. In the school record mentioned above, the caste of the relatives of the petitioner has been shown as 'Tokre Koli,' and they have shown admitted to Balvarga. They were in the School for a few months from their admissions. For example, Tukaram Bavuskar was shown admitted to the School on 04.04.1921, and he left the School on 11.12.1921. All these relatives left the School. In a few cases, after three years of their admissions, they were shown learning in I<sup>st</sup> standard at the time of leaving the School.

39. The question that arises is, whether a document maintained by the School in due course of business and thirty years old documents can be discarded?

40. Learned senior counsel Mr. Dhorde has relied upon the case of *Anand vs Committee for Scrutiny and Verification of Tribe Claims and Others (2012) 1 SCC 113*, in the said judgment the Hon'ble Apex Court has observed in paragraph 22 which reads thus,

"22. It is manifest from the afore extracted paragraph that the genuineness of a caste claim has to be considered not only on a thorough examination of the documents submitted in support of the claim but also on the affinity test, which would include the anthropological and ethnological traits, etc., of the applicant. However, it is neither feasible nor desirable to lay down an absolute rule, which could be applied mechanically to examine

a caste claim. Nevertheless, we feel that the following broad parameters could be kept in view while dealing with a caste claim:

(i) While dealing with documentary evidence, greater reliance may be placed on pre-independence documents because they furnish a higher degree of probative value to the declaration of status of a caste as compared to post-independence documents. In case the applicant is the first generation ever to attend School, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim. In fact, the mere fact that he is the first generation ever to attend School, some benefit of doubt in favour of the applicant may be given. Needless to add that in the event of doubt on the credibility of a document, its veracity has to be tested on the basis of oral evidence, for which an opportunity has to be afforded to the applicant."

41. Learned Senior counsel relied on the case of ***Vilas Dinkar Bhat Vs. State of Maharashtra and others, 2020 (6) All M.R. 577***. In the said case, there were 23 documents on record showing the caste as "Maratha" or "Marathi", and only four documents record the caste as "Thakar". In the judgment, this Court held that Marathi is the caste and not the language. The peculiar facts of that case were that the original record of those four documents was called for, and the Committee was satisfied with the genuineness of the entries. In the light of these facts, it has been observed that a Committee cannot throw those four constitutional documents. However, this case is distinguishable on facts.

42. Learned Senior counsel relied on the judgment of this Court in case of *Ajay Narayan Parate Vs. State of Maharashtra and others, 2019(4) ALL M.R. 372*. In the said case, the caste claim was rejected as there was overwriting in the school record of the father of the petitioner, and with the endorsement of the Headmistress word "Halba" was written in different ink. In the report of Vigilance Cell, except for the entry in the name of the petitioner's father, the validity of the grandfather's caste was not disputed. There was evidence showing that not a single document showed the tribe of the petitioner or his blood relatives other than Halba. In the set of facts, the ratio has been laid down that all those documents have probative value.

43. The record reveals that the petitioner is not the first ever to attend the School. On the contrary, her father, grandfather, and grand cousin uncles attended the School before the independence. The school record is free from infirmity, and no evidence is produced to believe that the said record is fabricated. The cousin grandfather of the petitioner namely, Huna Baviskar was shown admitted to the School lastly amongst others on 21.06.1924 and was born on 20.02.1912. Her two cousin grandfathers Ketu Kalu Baviskar and Lotu

Kanhu Baviskar were shown admitted to School first amongst others on 01.04.1920 who were born on the same date i.e. 09.05.1900.

44. Their caste in the school record was "Tokre Koli." The record further reveals that the tribe claim from the family of the petitioner was broken when her second cousin uncle namely Pundalik Huna Baviskar was admitted to the School on 28.05.1945. This chain remained broken till the admission of her real sister namely Shobha admitted to the School on 01.06.1977. Then again, the School Leaving Certificate of her brother's daughter, namely Manisha Sahebrao Baviskar, whose admission date is missing, shows her caste as "Tokre koli". Her father, who was admitted to the School on 02.01.1939, has also not shown belonging to Scheduled tribe "Tokre koli". His caste is mentioned as 'Koli.' The petitioner has no case that any time before an attempt was made to correct the caste of herself, her sisters and the father. Her father's caste in the birth register maintained by Yawal Nagar Parishad is shown as "Koli" and his date of birth also differs from the date of birth shown in the school admission register. The death certificate of her grandfather shows his caste as "Hindu". Indisputably 'Hindu' is not a caste. It is a religion.

45. Section 35 of the Evidence Act deals with an entry made in the public record stating a fact in issue or relevant fact made by a public servant in discharge of his public duty specially enjoined by the law, itself is a relevant fact. Such entry is admissible in evidence, and it has a probative value. The Hon'ble Supreme Court in the case of ***State of Bihar Vs. Radha Krishna Singh and Ors. A.I.R. 1983 SC 684*** has observed that "Admissibility of a document is one thing and its probative value is quite another. These two aspects cannot be combined. A document may be admissible and yet may not carry any conviction, and the weight of its probative value may be nil. A probative value of documents which, however ancient they may be, do not disclose the source of their information or have not achieved sufficient notoriety is precious little".

46. The Hon'ble Supreme Court has in the case of ***Madan Mohan Sing Vs. Rajni Kant, A.I.R. 2010 SC 2933*** in paragraph no. 16, observed thus,

"16. So far as the entries made in the official record by an official or persons authorized in the performance of official duties are concerned, they may be admissible under section 35 of the Evidence Act but the Court has a right to examine their probative value. The authenticity of the entries would depend on whose information such entries stood recorded and what was his source of information. The entry in School Register/School

Leaving Certificate require to be proved in accordance with law and the standard of proof required in such cases remained the same as in any other civil or criminal case."

47. It is clear from the above ratio that, though the document is old, if it does not disclose the sources of their information, such document cannot be admitted in the evidence. Its probative value has to be examined before accepting the public document in evidence. A public document may be admissible, but whether its contents have any probative value may still be required to be examined in the facts and circumstances of a particular case. This indicates that the Court has to examine each case on its facts and circumstances.

48. The second aspect to be considered in this case is the age of the documents. The documents relied upon by the petitioners are mostly thirty years old. Under section 90 of the evidence act, such thirty-year-old documents, if produced from proper custody, are presumed to be genuine. The presumptions are always rebuttable. Its genuineness may be rebutted by producing contra evidence. Bearing in mind the above legal principle regarding the admissibility of the documents relied on by both sides, the present would be dealt with.



49. The learned senior Counsel Mr. Sapkal has referred to the entries of birth and death of the relatives of the petitioner shown in the Vigilance Cell Report and would point out that these are the contra evidence and that disproves the claim of the petitioner. The petitioner, in her explanation to the show cause on the vigilance report, has given the serial numbers of the persons who are not her blood relatives from her paternal side. However, she has not denied the blood relations with the persons shown at serial Nos. 80, 82, 84, 104, 120, 124, 131, 140, 147, 151, 159, 166, 169, 175, 177, 180, 186, 190, 191,198, 204 to 211, 231 to 216, 218,219, 222, 223, 225, 226, 238 to 233, 236, 237, 240 and 241.

50. The person named in serial No.80 in the chart of Vigilance Cell is shown as born on 25.04.1907, and the last person in serial No.124 is shown as born on 24.07.1913. Other persons in the remaining serial numbers have shown dead pre-independence between 1914 and 30.09.1946. Rest have been shown dead post-independence. The caste of the persons named in the chart has been written as "Koli".

51. The roznama (order sheet) of the proceeding date 11.01.2022 reveals that the petitioner had requested respondent No.2 to call the Chief Executive Officer, Yawal

Nagar Parishad, District Jalgaon. Accordingly, the Superintendent, namely Mr. Rajendra Deore and Clerk Rajendra Gaikwad from the birth-death register section, appeared before the Committee, and produced the birth and death original register for the years 1928 and 1930. However, in the Rojnama dated 11.01.2022, there is a reference to a letter dated 10.01.2022 written by the Chief Officer, Nagar Parishad Yawal. In the said proceeding, the said letter is placed on page No.681. Its contents have been reproduced in the roznama in the words that, 'while inspecting the said document or register, it is observed that the then staff has rewritten the document as it is from the original register as it was likely to be destructed due to tearing and rotting'.

52. The roznama further reveals that the birth-death register having a son and daughter born to Keshav Khandu Koli, the grandfather of the petitioner, was given to the complainant and his learned Counsel. After going through the said report, he made a statement that the original record from which the record was rewritten was not available in the office of Nagar Parishad Yawal. Further, the witness made a statement that whatever record is produced is used in the office as an official record. The learned Counsel for complainant No.1 raised an

objection that the copies produced by Mr. Deore are not certified by the Head of the Office. The serial numbers on those documents are not in sequence. The blank pages have been lined. Page No.185 did not find in the register thereon Mr. Deore made a statement that the original record from which the copy is made is not available in the Nagar Parishad.

53. The learned Counsel for the complainant raises an objection that since it is a re-constructed record, that cannot be conclusive evidence. On the contrary, on examining the said record, the learned Senior Counsel for the petitioner made a statement that in the birth register, the caste is mentioned as "Tokre Koli". It is urged that there is neither overwriting nor change in the handwriting in the said record. The said record was then returned to the concerned authorized person.

54. The Roznama dated 11.01.2022 further reveals that the learned Counsel for the petitioner had placed an affidavit of Mr. Dilip Eknath Koli to prove that he is not in the pedigree of the petitioner. He stated in his affidavit that the Vigilance Officer never inquired with him. The Counsel for the complainant made a statement that the affidavit was filed only to strengthen the petitioner's case. Learned Counsel for the petitioner has submitted an affidavit of Vithhal Tanku Koli, in

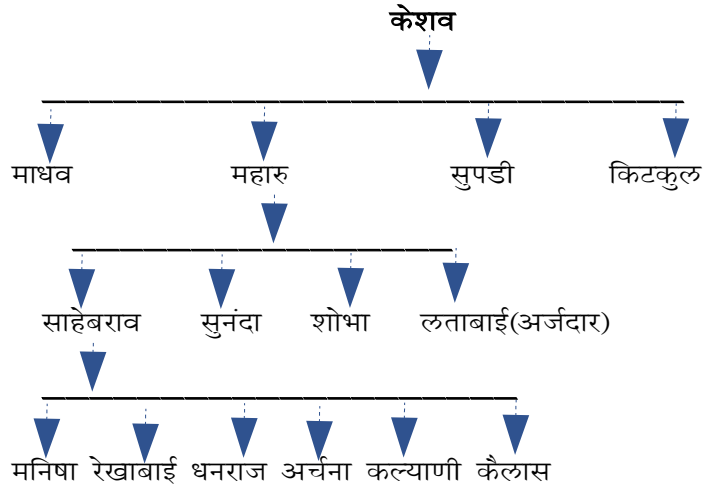
which he has stated that he is not the blood relative of the petitioner. In a question put to him by the Counsel for the complainant, he said that the Vigilance Officer did not interrogate him. An affidavit of Punju Arjun Koli is also filed in which he stated that Mr. Dagadu had no brothers, namely Tukaram and Shravan. A similar affidavit of Soma Ramchandra Koli (Baviskar) is also filed.

55. The rozanama further reveals that the petitioner's Counsel had produced two documents. Those were supplied to the opponent. The Committee referred those documents to the Vigilance Committee and directed to verify their genuineness within two days.

56. Pursuant to the directions, the Vigilance Cell submitted its report on 14.01.2022 on page No.722 in the original proceeding. The Vigilance Cell tested the veracity of the birth-death register from the year 1880 to 1914 maintained by Tahasil Office at Chopda, District Jalgaon. He finds that the registers from 1880 to 1914 are in Modi script. He obtained colour copies of the Modi script register from the Tahasil Office and got it translated by translator Mr. Shripad Nandedkar. It was revealed that the persons namely, (a) Saki s/o Ragho s/o Bhila, (b) Dhagi w/o Yedu Avachit, (c) Dagadu s/o Wedu s/o

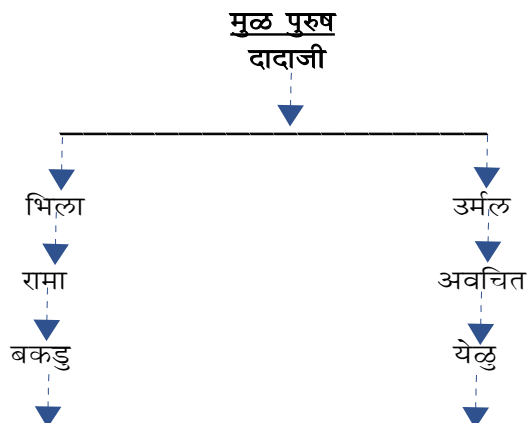
Ukha, (d) Rama s/o Kautik, (e) Tanu s/o Bakadu s/o Rama, (f) Dagadu s/o Eka s/o Bakadu, and (g) Dasrya s/o Ragho s/o Bhila were born pre-independence and their caste is “Tokare Koli”.

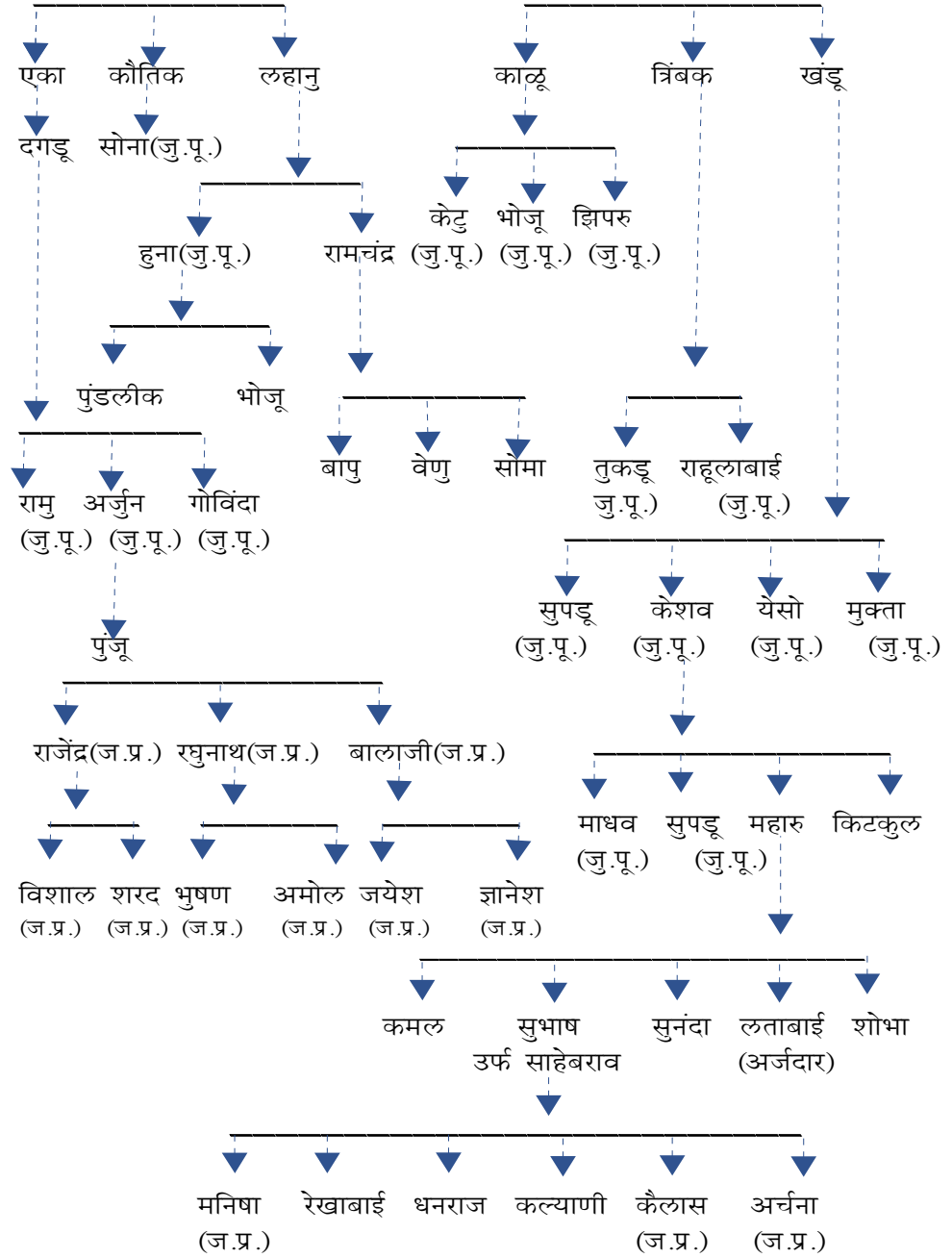
57. In her previous application, the petitioner had given the following genealogy in her affidavit.



58. The petitioner then, with the present application, has submitted a new genealogy as follows ;

नमुना फ मधील शपथपत्रामध्ये खालील प्रमाणे विस्तृत वंशावळीची माहिती देत आहोत.





59. In none of the genealogy, she mentioned, Ragho as her blood relative, who has been shown as a son of Rama by the Vigilance Officer. To disprove the genealogy prepared by the Vigilance Officer, the petitioner has filed some affidavits as mentioned above. Dilip Ekanath Koli has stated in his affidavit that the Vigilance Officer has incorrectly shown his great great

grandfather namely Ragho Bhila as a blood relative of the petitioner. He has also stated that his great great grandfather had two children, namely Sakhi and Dasrya. He has no blood relation with the petitioner. So they are not her relative. It is corroborated by the birth-death register entry mentioned on page No.723 of the proceeding.

60. Punju Arjan Baviskar, in his affidavit, has stated that the Vigilance Officer, instead of writing his cousin grandfather's name as Lahanu Bakdu Koli has incorrectly written his name as Lahanun Shravan Koli and prepared a false genealogy. Shravan Bakdu was childless, and similarly named persons in the village have been entered into genealogy. His grandfather Bakdu had only one son Dagadu. He had given the same statement to Vigilance Officer. However, his statement 12.03.2021 reveals that he has stated that his great grandfather had five brothers, including Shravan. Hence, his affidavit falls under the shadow of a doubt.

61. Shantaram Soma Baviskar, in his affidavit, stated that the petitioner is his cousin sister. However, his grandfather Lahanu had no brothers. His great great grandfather Eka had only one son Dagadu. The genealogy prepared by Vigilance Officer is false. The petitioner in her genealogy has shown

Dagadu as the only son of Eka. The vigilance report does not show any statement to prove such genealogy. No source of such information is available on record.

62. Vithhal Tanku koli, in his affidavit, has stated that the petitioner is not her blood relative, and his branch is different. He has stated that the name of his cousin uncle has been incorrectly written as Lahanu Shravan Bakdu instead of Lahanu Bakdu koli. His statement before the vigilance officer reveals that he had stated the name of Shravan as his relative. Hence, his affidavit cannot be accepted.

63. The persons, namely Dhagi w/o Yedu and Dagdu s/o Eka s/o Bakdu, are shown in the Vigilance Report dated 14.01.2022 (page No.722), prove that they are the blood relative of the petitioner. Their cast is shown as "Tokare Koli". Daghi died on 28.05.1880, and Dagdu was born in 1881, but his exact date of birth is not given. Both these entries contradict the record translated by Shri Popat Sitaram Thorat. The date of death of Dhagi in the Vigilance report dated 20.02.2021 on page 524 shows 05.06.1890 with caste 'Koli'. Similarly, on page 811 of the said report, the date of birth of Dagadu s/o Eka is shown as 25.04.1907 with Koli caste. Such contra evidence destroyed the petitioner's claim.



64. The school admission register and the birth and death entries are the documents mainly relied upon by the petitioner. As against this, respondent Nos.3 and 4 relied on the revenue record and Birth and death entries. The record reveals that many entries in the Birth and Death Register to have the names of the blood relatives of the petitioner are of "Koli" caste. The details have been given in the Vigilance report. Learned Senior Counsel Mr. Sapkal pointed out such 107 birth and death entries, out of which some have been not disputed by the petitioner. He is right in his right in his submission that as against the School register entries, the entries from the birth and death register would prevail. In support of his contention, he relied on the case of ***CIDCO Vs. Vasudha Mandevlekar (2009) 7 SCC 283***. The Hon'ble Apex Court has observed in paragraph No.18 thus,

*"18. The Death and Birth Register maintained by the Statutory Authorities raises a presumption of correctness. Such entries made in the statutory registers are admissible in evidence in terms of Section 35 of the Indian Evidence Act. It would prevail over an entry made in the School Register, particularly in the absence of any proof that same was recorded at the instance of the Guardian of the respondent."*

65. The petitioner' father's caste in his birth register is shown as "Koli". It was a pre-independence entry. The revenue record

in the name of her grandfather shows his caste as "Hindu". As observed above, "Hindu" is not a caste. Her sisters' caste in the School Leaving Certificates is also not shown as "Tokre Koli." The petitioner has no case that she, her sisters, father or grandfather has ever attempted to correct their caste in their School record. Suddenly her brother's children claimed that they are "Tokre Koli". They have no validity granted in their favour. Bare entries of such caste in their School leaving certificate would not support the petitioner.

66. The petitioner has relied on the validity of one Raju Daga Koli and claimed that a caste validity is issued to her blood relative and thus her claim may be accepted. In her reply to the show cause, she explained that she did not know that the Scrutiny Committee had invalidated his elder brother's 'Tribe' claim, and it is not binding on her. She has more reliable documents to prove her claim. As against this respondent Nos.3 and 4 pointed out that this Court in W.P No.6721/2014 vide judgment and order dated 25.07.2017 permitted the petitioner to obtain the certificate of Special Backward Class. The explanation given by the petitioner indicates that she did not rely upon the said validity certificate.

67. Learned Counsel Mr. Sapkal has argued that Section 10 of the Maharashtra Scheduled Tribe (Regulation of Issuance and Verification of Certificate) Rules 2003 does not bar the appointment of the retired employee as Vigilance Officer. To bolster his arguments, he relied upon the judgment of this Court in case of *Sudha Bhaskarrao Saikhed Vs. Yashodabai Shikshan Sanstha and others, 2003 (4) Mh. L.J. 659*. The said case is under a different law and facts.

68. We have examined the relevant rules and find that no specific bar is provided in the said rules against appointing a retired officer or specific provision that the officer in service shall only be appointed as Vigilance Officer. Be that as it may, the petitioner was granted a fair opportunity to submit her reply to the Vigilance Report. Hence, no prejudice is caused to the petitioner. We do not find substance in such objection to the appointment of a retired officer as Vigilance Officer.

69. The learned senior counsel Mr. Dhorde would argue that the affinity test is not a litmus test, and the claim cannot be declined on the affinity test only. To support his arguments, he relied on the judgment of this Court in case of *Saurabh S/o Ashok Nikam Vs. State of Maharashtra and another in Writ Petition No.241 of 2022*, decided on 06.01.2022. It is on the

affinity test. The issue as regards the affinity test is well settled, as discussed above.

70. A detailed discussion of facts and law laid us to arrive at the conclusion that the Birth and Death entries would prevail over the entries in the School Admission registers. The petitioner failed to prove that the caste mentioned in the school register was recorded on the instructions of their parents or guardian. On the contrary, the explanation has been given that census instructions prevailed upon the authorities to record the caste by its broad nomenclature in the old days. This indicates that the caste of her relatives was not recorded on the instructions or the information of their parents or guardians.

71. The record further reveals that there was contra evidence in the Birth and Death registers of her relatives. The 'Koli' caste has been consistently shown in the name of her father and grandfather. The school record of the petitioner and her sisters shows their caste as "Koli", and it was not changed to date. Since her father's lifetime, there have been many caste entries of "Koli" in the name of her blood relatives, which is contra evidence. The statement of the concerned person who appeared before the Committee from Yaval Nagar Parishad has

thrown the light of genuineness on these documents. No originals were brought before the Committee.

72. The person who appeared for and on behalf of the Yawal Nagar Parishad ought to have produced the original register before the Committee, but he has produced the rewritten copy and shown his inability to produce the same assigning the reason that the original registers are ragged and there is a possibility of its tearing. Such evidence cannot be relied upon. The entries of the pre-independence era, if rebutted, cannot be given probative value. The presumption under section 90 of the Indian Evidence Act would also not help the petitioner for the reason that the strong evidence in rebuttal was available. The petitioner failed to prove that she belongs to the "Tokre Koli" tribe caste. The impugned judgment delivered by the respondent No.2 is well reasoned order. There is no perversity in the finding rendered by the respondent No.2. Thus, it is not permissible for this Court to interfere with such findings of fact in the writ petition. No interference is thus warranted.

73. For the aforesaid reasons, we dismiss the petition. Ad-interim relief, if any granted earlier, to continue for a period of four (4) weeks. Rule is discharged.

74. No orders as to costs. Parties to act on the authenticated copy of this order.

75. Pending civil applications, if any, stand disposed of.

76. Record and proceedings be returned to the learned Government Pleader.

(S. G. MEHARE, J.)

(R. D. DHANUKA, J.)

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vmk/-