

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

WRIT PETITION NO. 8863 OF 2014

1. Vishal S/o Sanjay Navsare u/g of
his father Sanjay Suklal Navsare
and another .. Petitioners

Versus

The State of Maharashtra and another .. Respondents

Shri S. R. Barlinge, Advocate for Petitioners.
Smt. S. A. Dhumal, A.G.P. for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.
DATE : 03RD AUGUST, 2015.**

PER COURT :

- . Leave to amend the cause title.
2. Mr. Barlinge, the learned counsel submits that, the Sub Divisional Officer has rejected the application for issuance of caste certificate only on the ground of jurisdiction. The petitioners had applied for issuance of caste certificate through their father as belonging to "Malhar Koli" (Scheduled Tribe). The learned counsel submits that, the father of petitioners has been issued tribe certificate as belonging to Malhar Koli (S.T.). The same is given by the Sub Divisional Officer, Dhule. The learned counsel submits that, the tribe claim of the petitioners'

father has been invalidated. The same is pending before this Court. According to the learned counsel, the father of the petitioner is residing here for more than 25 years. Right now he is serving at Kannad as an Assistant Teacher. The certificate is also issued by the Tahsildar Kannad in the year 2007 stating that the petitioners' father is residing at Kannad for more than 15 years. According to the learned counsel, the case of the petitioner is covered by Rule 5(2) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes, Vimukta Jatis, Nomadic Tribes, Other Backward Classes and Special Backward Category (Regularization of Issuance and Verification of) Caste Certificate, Rules 2003. The learned counsel relies on the judgment delivered by this Court in Writ Petition No. 7334 of 2010 and the order passed by the Division Bench of this Court in case of **Niraj Kamlakar More and others Vs. Scheduled Tribe Certificate Scrutiny Committee and others** reported in **2012 (6) Bom.C.R. 221**. So also order passed by us in Writ Petition No. 7193 of 2015 dated July 20, 2015.

3. We have also heard the learned Assistant Government pleader.

4. In all these judgments referred supra, we had considered the aspect of issuance of caste/tribe certificate by the Sub Divisional Officer at the place of residence. In the present case,

the certificate issued by the Tahsildar Kannad shows that the father of petitioners at the relevant time was residing at Kannad for more than 15 years and as on the date for more than 25 years. The petitioners are residing at the present place right since birth. The petitioners are residing within the territorial jurisdiction of the Sub Divisional Officer i. e. the respondent No. 2.

5. Considering the aforesaid judgments and Rule 5(2) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes, Vimukta Jatis, Nomadic Tribes, Other Backward Classes and Special Backward Category (Regularization of Issuance and Verification of) Caste Certificate, Rules 2003 and also considering the fact that, the father of the petitioners has been issued with the tribe certificate, the impugned order is quashed and set aside. The respondent No. 2/Sub Divisional Officer shall decide the application of the petitioners for issuance of tribe certificate as belonging to "Malhar Koli" (Scheduled Tribe) and shall not reject the same on the ground of jurisdiction. The same shall be done expeditiously and preferably within a period of three (3) months from today. The writ petition is disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]