

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.9902 OF 2016

01 Aniket s/o Gopalrao Jibalwad,
age: 23 years, Occ: Education,
R/o Udgir, Tq. Udgir,
District Latur.

02 Abhijeet s/o Gopalrao Jibalwad,
age: 20 years, Occ: Education,
R/o Udgir, Tq. Udgir,
District Latur.

03 Arti d/o Gopalrao Jibalwad,
age: 18 years, Occ: Education,
R/o Udgir, Tq. Udgir,
District Latur.

Petitioners

Versus

01 The State of Maharashtra,
Department of Tribal Development,
Mantralaya, Mumbai-32,
through its Secretary.

02 The Sub Divisional Magistrate,
Udgir, District Latur.

Respondents

Mr.Vivek U. Jadhav, advocate for petitioners.
Mr.S.G.Karlekar, AGP for Respondents.

**CORAM : R.M.BORDE &
K.K.SONAWANE, JJ.
DATE : 26th September, 2016**

ORAL JUDGMENT (Per R.M.Borde, J.):

1 Heard. Rule. Rule made returnable forthwith and
heard finally by consent of learned Counsel for respective parties.

2 Petitioners are objecting to the separate orders passed by the Sub Divisional Officer, Udgir, District Latur, on 19.09.2016, rejecting the applications tendered by respective petitioners for issuance of caste/tribe certificate.

3 Petitioners are *inter se real* brothers and sister. They claim to belong to Koli Mahadev, Scheduled Tribe. Petitioners are prosecuting their higher studies. Petitioner No.1 is desirous of seeking admission to M.B.A. course in Indian Institute of Management as against a seat reserved for Scheduled Tribe category. The petitioners tendered applications to the Sub Divisional Officer for issuance of caste/tribe certificate. However, the Sub Divisional Officer did not consider the applications expeditiously. Since petitioners needed caste/tribe certificate for pursuing higher studies, petitioners presented Writ Petition No.9646 of 2016 seeking a direction for issuance of caste/tribe certificate. This Court, by an order dated 16.09.2016, directed the Sub Divisional Officer to consider the proposals of petitioners for issuance of caste/tribe certificate and take decision expeditiously, preferably before 21.09.2016. The Sub Divisional Officer, however, has turned down request of petitioners.

4 Petitioners place reliance on the caste/tribe certificate issued to their father by the Taluka Executive Magistrate, Udgir, who was competent at the relevant time to issue caste/tribe certificate i.e. on 19.06.1990, certifying that petitioners' father belongs to Koli Mahadev tribe. Father of the petitioners was appointed as teacher in Ashram School and in his service record there is an entry in respect of his tribe as "Koli Mahadev".

5 Apart from this, school record of petitioners also record an entry in respect of their tribe as "Koli Mahadev". The Circle Inspector, conducting local inquiry, also reported on 19.09.2016, that petitioners appear to be belonging to "Koli Mahadev", Scheduled Tribe.

6 In our view, material placed on record by petitioners, *prima facie* entitle petitioners to claim tribe certificate. This Court, in number of judgments, recorded that caste or tribe certificate is required to be issued on *prima facie* considerations and an individual seeking caste or tribe certificate is entitled to gain benefits in the matter of education and service only subject to the orders, those would be passed by the Scrutiny Committee, on verification of caste/tribe claim. The certificate issued to an individual is always subject to scrutiny by the Competent Scrutiny Committee. The applications tendered by petitioners have been turned down on irrelevant considerations. Petitioner no.1 claims that the last date prescribed for submission of online application is 27.09.2016 till 5.00 p.m.

7 Considering this aspect, we direct Respondent No.2 to issue caste/tribe certificate certifying them to be belonging to Koli Mahadev, Scheduled Tribe, expeditiously. So far as petitioner no.1 is concerned, in any case, the caste/tribe certificate shall be issued before 12.00 noon on 27.09.2016. The order passed by this Court shall be complied with scrupulously.

8 Learned A.G.P., appearing for Respondent-State,

assures to communicate the order of this Court to the concerned Sub Divisional Officer telephonically.

9 Rule is accordingly made absolute. There shall be no order as to costs.

Parties to act upon authenticate copy of this order.

K.K.SONAWANE

JUDGE

adb/wp990216

R.M.BORDE

JUDGE