

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.11657 OF 2015

- 1) Ashwini d/o Sainath Surbulwad,
Age-17 years, Minor, Occu:Student,
As minor through her father and
natural guardian,
Sainath s/o Gouraji Surbulwad,
Age-69 years, Occu:Agri.,
- 2) Dattahari s/o Sainath Surbulwad,
Age-14 years, Minor, Occu:Student,
As minor through his father and
natural guardian,
Sainath s/o Gouraji Surbulwad,
Age-69 years, Occu:Agri.,

All R/o- At: Bachegaon, Post-Karkeli,
Tq-Dharmabad, Dist-Nanded.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32,
- 2) The Sub Division Officer,
Dharmabad, Tq-Dharmabad,
Dist-Nanded.

...RESPONDENTS

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Mr.A.H. Korhalkar Advocate for Petitioners.
Mr.B.V. Virdhe, A.G.P. for Respondent Nos.
1 and 2.

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**CORAM: R.M. BORDE AND
A.I.S. CHEEMA, JJ.**

DATE : 13TH JANUARY, 2016

ORAL JUDGMENT [PER R.M. BORDE, J.] :

1. Heard. Rule. Rule made returnable forthwith. With the consent of learned counsel for the parties, the Petition is taken up for final disposal at admissions stage.

2. The grievance raised by the Petitioners in the instant Petition is that though the Petitioners have tendered applications to the Sub Divisional Officer for issuance of tribe certificates on 30th October 2014, the said applications have not yet been decided. The Petitioners contend that the Sub Divisional Officer is insisting for production of the caste

validity certificates of the blood relatives of the Petitioners and the documentary evidence of a period prior to 1950. The Petitioners placed reliance on the tribe certificate issued by the competent authority in favour of their father on 4th August 1989 as well as entry recorded in the school record in respect of the caste/tribe of the Petitioners. Both the documents tendered by the Petitioners support their claim. Apart from this the revenue authority, after conducting local inquiry, has communicated to the Tahsildar, Dharmabad that the Petitioners appear to be belonging to "Mannerwarlu", Scheduled Tribe.

3. It is well-established that a tribe certificate issued to an individual belonging to a reserved category is always subject to validation by the competent Caste Scrutiny Committee and unless such order of validation is issued, such an individual is not entitled to claim the benefits either under the Government Scheme/policy for

securing employment or for educational purposes. In number of matters it has been reiterated by this Court that the caste/tribe certificate has to be issued by the authorities on the basis of prima facie material placed on record and detailed inquiry is contemplated at the stage of issuance of validation certificate.

4. In our opinion, the Petitioners have produced sufficient material entitling them to claim the tribe certificates, which are obviously subject to the orders of validation, which are required to be passed by the competent Scrutiny Committee.

5. In the facts of the case, we direct the Respondent No.2 - Sub Divisional Officer, Dharmabad, to issue tribe certificates in favour of the Petitioner Nos.1 and 2 certifying that they belong to "Mannerwarlu", Scheduled Tribe, within FIFTEEN DAYS from today.

6. Rule made absolute in the aforesaid terms. There shall be no order as to costs.

[A.I.S. CHEEMA, J.]

asb/JAN16

[R.M. BORDE, J.]