

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12038 OF 2016

Bhagirathibai D/o Govind Potalwad,
@ Bhagirathibai w/o Maroti Bonlewad,
Age; 56 years, occu: Household,
R/o Barao Galli, Mukhed,
Tq. Mukhed, Dist. Nanded

Petitioner

Versus

1 The State of Maharashtra,
Tribal Development Department,
Through Its Secretary,
Mantralaya, Mumbai 32

2 The Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division, Aurangabad

3 The Sub Divisional Officer,
Degloor, Tq. Degloor,
Dist. Nanded

Respondents

Mr. P. V. Jadhavar advocate for the petitioner
Mr. Y. G. Gujrathi, Assistant Govt. Pleader for Respondents

CORAM : **R.M. BORDE &
SANGITRAO S. PATIL, JJ**

(Date : 5th December, 2016.)

ORAL JUDGMENT

(Per: R.M. Borde, J)

1 Heard.

2 Rule. With the consent of the parties, petition is taken up

for final decision at admission stage.

3 The application tendered by the petitioner for issuance of tribe certificate was turned down by respondent No.3 on 28.10.2016, which order is impugned in the instant petition.

4 It is not a matter of dispute that, earlier, the petitioner was issued a tribe certificate by the Competent Authority on 14.10.2011 and a proposal was submitted by petitioner for verification of the certificate to the scrutiny Committee. The scrutiny committee turned down the proposal tendered by the petitioner, merely on the ground that the name of the father of the petitioner has not been recorded in the tribe certificate, which is a mandatory requirement under the relevant Rules. The petitioner has been given opportunity to secure proper certificate and re-submit the same for verification.

5 Although, on earlier occasion, certificate was issued in favour of the petitioner, the Sub Divisional Officer has turned down the request of petitioner for re-issuance of certificate by order dated 28.10.2016 on the ground that the petitioner has failed to submit old record.

6 It would be pertinent to note that while certificate was

earlier issued on 14.10.2011, the authority was satisfied as regards tribe status of the petitioner, however, it is surprising that the same authority in 2016 is not satisfied as regards the tribe status of the petitioner. The impugned order has thus been passed by the Sub Divisional Officer, without application of mind. Apart from this, the rejection of the application amounts to failure to exercise jurisdiction vested in the concerned authority. The impugned order, therefore, deserves to be quashed and set aside and the same is accordingly quashed and set aside. Respondent no.3-The Sub-Divisional Officer is directed to issue fresh tribe certificate to the petitioner in the prescribed proforma, as expeditiously as possible and preferably within a period of 15 days from today. On receipt of the certificate, it would be open for the petitioner to submit proposal for verification of the tribe certificate directly to the scrutiny committee within a period of eight weeks from the date of receipt of the tribe certificate.

7 Rule is made absolute in above terms. Writ petition is disposed of.

8 There shall be no order as to costs.

(SANGITRAO S. PATIL, J)

(R.M.BORDE, J)