

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4042 OF 2017

Suraj S/o Piraji Gondalwad

.. Petitioner

VS.

The State of Maharashtra and others

.. Respondents

Mr. E.S. Murge, Advocate for the petitioner

Mr. S.G. Karlekar, A.G.P. for the respondent/State

**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.**

DATE : 25-07-2017

ORAL ORDER :

1. Having heard both sides, we find that the order of the Competent Authority and that of the Scrutiny Committee in Appeal, are unsustainable in law.

2. The petitioner applied for issuance of a Caste/Tribe Certificate. The Tribe certificate as claimed is Koli Mahadev Scheduled Tribe, which is notified as Scheduled Tribe Entry no. 29 of the Presidential Notification.

3. The petitioner relied upon the certificate of Validity issued to Ananda Gangadhar Gondalwad. The certificate of validity was issued, according to the petitioner, to a close relative from the parental side. Then there was a caste certificate issued to the father by the Deputy Collector's office, Nanded dated 08/11/2011. Still, the petitioner was denied the Tribe Certificate, by recording that no revenue record was submitted to prove his claim and the genealogy does not match with the name mentioned in the Caste Validity Certificate.

4. Pertinently, this very Competent Authority Official filed a affidavit-in-reply. The deponent states that the petitioner has annexed the documents with his application i.e. report of Talathi, panchanama made by Talathi Sajja, Tq. Kandhar, Dist. Nanded, photocopies of the Electricity bill / Election Card and Adhar card of his father. He also filed school leaving certificate of his father, in which also the father's tribe was described as Mahadev Koli.

5. With all this, the Competent Authority still refuses the Tribe Certificate, on the spacious plea that the revenue record is not

submitted and the genealogy does not match with the name mentioned in the Caste Validity Certificate. Pertinently, he does not refer to the tribe certificate issued to the father.

6. In the above circumstances, and when the law envisages a limited Inquiry at the stage of issuance of a Tribe Certificate and not as elaborate as required for the scrutiny and verification of the claim after the caste or tribe Certificate is issued, both orders cannot be sustained in law.

7. We quash and set aside the impugned orders and direct that within a period of one week from today, the Sub-Divisional Officer, Kandhar, District – Nanded, shall issue the Tribe Certificate to the petitioner, stating therein that he belongs to Koli Mahadev Scheduled Tribe.

8. We clarify that the petitioner, if admitted to Javahar Navodaya Vidyalaya, he shall not be expelled from the school nor shall his admission be cancelled merely because the Tribe Certificate is not produced. The moment the Tribe Certificate is received by the petitioner, he shall hand over the same to the Principal/Headmaster of the school.

9. Needless to clarify that in the event any verification and scrutiny of the claim of the Caste/Tribe certificate is necessary in law, that shall proceed, uninfluenced by our orders.

10. Writ Petition is allowed accordingly.

[MANGESH S. PATIL]
JUDGE

[S.C. DHARMADHIKARI]
JUDGE

arp/