

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

WRIT PETITION NO. 3953 OF 2017

Yash Sanjay Thakur

.. Petitioner

Versus

Director of Technical Education
and others

.. Respondents

Shri Mahesh S. Deshmukh, Advocate for the Petitioner.

Shri M. B. Bharaswadkar, A. G. P. for Respondent Nos. 1 and 4.

**CORAM : S. V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

DATE : 23RD MARCH, 2017.

PER COURT :

. The order passed by the Committee thereby cancelling the tribe certificate on the ground that same is not issued by the authority possessing territorial jurisdiction is assailed.

2. Mr. Deshmukh, the learned counsel for the petitioner submits that, the father of the petitioner is already issued with the tribe certificate on 20th November, 1981 by the Executive Magistrate, Lonar, Dist. Buldhana. The petitioner had obtained tribe certificate from the Executive Magistrate, Aurangabad, at the place where the petitioner has migrated. According to the learned counsel, the Committee has not considered the provisions

of Rule 5(2)(b) of the Maharashtra Scheduled Tribe (Regulation of Issuance and Verification of) Certificate Rules 2003 (for short "Rules of 2003").

3. The learned Assistant Government Pleader submits that, the Committee has considered Rule 4 of the Rules of 2003 and also the judgment of this Court and has rightly come to the conclusion about the authority at Aurangabad not possessing territorial jurisdiction to issue the tribe certificate.

4. It is not disputed that, the father of the petitioner has been issued with the tribe certificate on 20th November, 1981. Rule 5(2)(b) of the Rules of 2003 would be applicable in such a case. Rule 5(2)(b) reads as under :

**The Maharashtra Scheduled Tribe (Regulation
of Issuance and Verification of) Certificate
Rules 2003**

1.

**5. Grant of Scheduled Tribe Certificate to
migrated persons.**

(1)

(2) *Migration from one district to another
district or from the jurisdiction of one
Competent Authority to another within the
State*

(a)

(b) The Competent Authority shall issue

Scheduled Tribe Certificate in Form C to an applicant of other district from which he had migrated to the present place, on the production of the Scheduled Tribe Certificate issued to his father or grandfather by the then Competent Authority of the district of his father or grandfather's original at the time of passing of the first Presidential Order dated the 6th September 1950 or thereafter, for Scheduled Tribes.

5. If the father or grandfather of the petitioner has been issued with the tribe certificate and subsequently the candidate migrates, then the competent authority of the migrated place can issue the tribe certificate.

6. Considering the fact that, the father of the petitioner has already been issued with the tribe certificate, the authority at Aurangabad was competent to issue the tribe certificate in view of Rule 5(2)(b) of the Rules of 2003.

7. In the light of the above, the impugned judgment and order is quashed and set aside. The Committee shall decide the validation proceedings in respect of the tribe claim of the petitioner on its own merits as per procedure expeditiously. The petitioner may appear before the Committee on 12th April, 2017. The writ petition accordingly is allowed. No costs.

8. Till the validation proceedings is decided, the respondents

shall not take any adverse action against the petitioner, nor shall prevent the petitioner from prosecuting further studies only on the ground that validation proceedings is pending. The respondents can take further course of action depending upon the judgment that may be delivered by the Committee in validation proceedings.

[SANGITRAO S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb/March 17