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

WRIT PETITION NO. 6470 OF 2017

**BALAJI TUKARAM SARJE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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**Advocate for Petitioner : Jadhav Vivek U.
AGP for Respondents: Mr.A.R.Kale for R.1 to 3.
Adv.Mr.P.R.Tandale for R.4.**

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

DATE : 23/06/2017

PER COURT :-

1] The petitioner states that he is an Assistant Teacher with Zilla Parishad, Latur and is resident of Latur. He had applied to the Tahsildar and Executive Magistrate, Latur for issuance of Caste Certificate. That authority issued the Caste Certificate certifying him as belonging to Koli Mahadev (Scheduled Tribe).

2] The petitioner after undergoing a full process of selection was selected and eventually appointed as Assistant Teacher (Primary). He was issued an appointment order on 28/07/1998. At that time he was posted at Zilla Parishad Primary School, Sarola, Tq. Ausa, Dist. Latur. He is working since then but because he was transferred and presently working with Zilla Parishad, Central Primary School, Patharwadi Tq. Renapur, Dist. Latur. The Koli Mahadev Tribe Certificate which the petitioner utilized to obtain the appointment came to be forwarded for verification and scrutiny of the claim in

terms of the Act No. 23/2011. The petitioner submitted that he was never called upon to explain as to how the Tahsildar and Executive Magistrate, Latur was incompetent to issue Caste Certificate. It is only on that ground that the claim has been negated. Resultantly the petitioner could not obtain the caste validity certificate.

3] The Committee's initial order cancelling the certificate was challenged in this Court by filing a Writ Petition. That was allowed by quashing and setting aside the order of the Scrutiny Committee. Unfortunately at that stage the petitioner was not advised to take up the plea of his lack of control over the proceedings before the Tahsildar and Executive Magistrate, Latur. It is not that the petitioner deliberately went and sought such a certificate, it is only because the petitioner was residing within the area of the same Tahsildar and Executive Magistrate, Latur that he approached him. It is in these circumstances that when the certificate went back to the Scrutiny committee for scrutiny and verification, the petitioner's specific claim was that he appeared through the Advocate and in the written submissions he pointed out that the family had left the original place of residence viz. Kandalgaon Tq. Indapur, Dist. Pune, they have settled and have their means of livelihood at Latur. That is how he applied for the Caste Certificate to the Tahsildar and Executive Magistrate Latur. The committee however was not satisfied with this explanation and proceeded to reject the claim and refused to issue the Caste Validity Certificate. Resultantly, this second writ petition.

4] First of all, we must clear the ground as the petitioner has specifically urged before the committee as also before us that his father Tukaram Laxman Sarje was admitted in Zilla Parishad Central Primary School Hallali Tq. Nilanga, Dist. Latur way back on 22/07/1960. The petitioner submitted this school admission extract

of his father. The petitioner also pointed out that the very committee viz. second respondent has issued a certificate of validity to his real brother Govind Tukaram Sarje on 16/04/2009. The same genealogy and the same family tree was forwarded at that time. Once no objection was raised and the committee on being satisfied with the merits of the petitioner's brother's claim, issued him a caste validity certificate, then, it was expected that it would apply the same principles and follow its own order to issue the validity certificate to him.

5] We have noticed from the above materials that the committee has not applied its mind to any of them but has proceeded to refuse the validity certificate. In matters of competency or incompetency of the competent authority, parties like the petitioner have no control. If they reside within the of operation or work within the territorial jurisdiction of a particular competent authority, naturally they approach the said authority. The parties are not well-versed with the procedure or the manner in which the Caste Certificates are issued. Hence if any error is committed by the competent authority then it is not the party who is at fault. The fault lies somewhere else but the petitioner is suffered. Once the parties like the petitioner have no control over the proceedings, we do not see any justification for the committee taking a hyper-technical view of the matter.

6] As a result of the above discussion and after we have perused the original record and find that all the factual averments in this petition get support from the same, we allow this Petition. We quash and set aside the impugned order. We direct the committee to issue a certificate of validity to the petitioner within a period of two weeks from the date of receipt of copy of this order, failing which the committee will have to pay costs. We quantify the costs at

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Rs.50,000/- [Rupees Fifty Thousand] and to be paid by the committee members personally. If they fail to pay the same within four weeks after expiry of the above period, that amount shall be recovered from them as arrears of land revenue.

(MANGESH S. PATIL,J.)

(S.C.DHARMADHIKARI,J.)

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