

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

WRIT PETITION NO. 8058 OF 2017

**SACHIN MANGALSING NAIK MINOR UNDER GUARDIAN FATHER M G
NAIK AND ANOTHER.**

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER.

WITH

WRIT PETITION NO.8059 OF 2017

PAYAL BHAGCHAND BHOKAN AND OTHERS.

-VERSUS-

THE STATE OF MAHARASHTRA AND ANOTHER.

...

Advocate for Petitioners : Shri Jadhavar Pratap V.
AGP for Respondents/ State : Shri S.B.Yawalkar.

...

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

DATE :- 29th June, 2017

PC.:

1 On the earlier occasion, we passed a detailed order on the presumption that the Petitioners have approached this Court with the grievance that though an innocuous request was made for issuance of a tribe certificate, that is denied on flimsy ground. The argument proceeded on the footing that a detailed scrutiny as if the claims are genuine or not, commenced rather than the competent authority being satisfied about the requirements set out in Rule 4(1) of the Maharashtra Scheduled Tribes

(Regulation of Issuance and Verification of) Certificates Rules, 2003.

2 Since the grievance was that the Petitioners were denied the certificates also because there was a dispute as to who was the competent authority, the Tahasildar or Sub Divisional Officer, that we called upon the learned AGP to produce the original records and offer an explanation as to why this competent authority is denying the request of the Petitioners.

3 Now, we are informed that it is indeed the Sub Divisional Officer, Sillod who is the competent authority. It is that authority who has passed the orders on 28.06.2017 rejecting the applications for issuance of the tribe certificates. The orders dated 28.06.2017 which are tendered before us, are taken on record and marked as Exhibit X for identification.

4 We have perused these orders and ordinarily, we would have dismissed these petitions as the Petitioners have an alternate and equally efficacious remedy of approaching the appellate authority under the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. However, the Petitioners' Advocate requests this Court to take a sympathetic view as the Petitioners are tribals. He would submit that tribals are facing enormous difficulties in obtaining the tribe certificates as most of them are uneducated, illiterate and in search of work and livelihood have left their earlier abode and now in a distinct

district like Aurangabad, cannot produce immediately the necessary documents. Some of them do not have even permanent residence.

5 Once such difficulties are projected and there is a grievance raised that the Rules are not complied with, that in the peculiar facts and circumstances of this case, we pass the following order:-

- (a) The orders dated 28.06.2017 issued by the Sub Divisional Officer are quashed and set aside.
- (b) The applications of the Petitioners for issuance of the tribe certificates shall be considered afresh and strictly in accordance with the Rules, 2003.
- (c) The Petitioners will be afforded an opportunity of personal hearing in the peculiar facts of this case because they want to satisfy the authority that tribals face genuine difficulties. In that regard, our attention is invited to Rule 4(1) and (2). The information provided is complete, according to the Petitioners' Advocate. In these circumstances, the competent authority shall permit the inspection of records and documents in his/her possession to the Petitioners.
- (d) The competent authority shall pass a fresh order on merits and in accordance with law within a period of TWO WEEKS from today.
- (e) Needless to clarify, the Petitioners are free to produce such

proof of residence as they have in their possession and equally, they are free to furnish an explanation as to why the residential address is not appearing or not mentioned in some vital documents.

6 The Writ Petitions are, accordingly, disposed of.

kps

(MANGESH S. PATIL, J.)

(S.C. DHARMADHIKARI, J.)