

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

WRIT PETITION NO. 7462 OF 2016

Arjun S/o Vishwanath Popalwad,
minor u/g of his real father
Vishwanath Govind Popalwad .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioner.
Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.
DATE : 21ST FEBRUARY, 2017.**

PER COURT :

. In fact, proper course to the petitioner was to prefer an appeal before the Committee against the order passed by the Sub Divisional Officer.

2. On 15.07.2016, this Court had issued show cause notice against the respondent No. 2 as to why action for committing breach of orders issued by this Court should not be initiated against him.

3. It appears that, the reason that prompted the Court to issue notice of contempt against the respondent No. 2 was that,

the respondent No. 2 did not even consider or deal with the order passed by this Court thereby directing to grant tribe certificate to the father of the petitioner, so also the endorsement.

4. Pursuant to the said show cause notice, the respondent No. 2 has filed his affidavit. He has tendered unconditional apology and further clarified that, said notings were made by the clerk and not by him. He has also further stated that, henceforth, he will take necessary care while deciding proposal for issuance of caste certificate and would pass appropriate orders after considering views expressed by this Court in various judgments. It has been observed by this Court that, the S. D. O. is rejecting application merely on the ground that document prior to 1950 i. e. Presidential Order are not produced. That cannot be a sole ground for rejecting application for issuance of tribe certificate. Various documents on record with attending evidence will have to be considered.

5. Considering the reply filed and unconditional apology tendered by the respondent No. 2, we recall the notice of contempt issued to the respondent No. 2.

6. In the present matter, it appears that, the father of the petitioner has been issued with the tribe certificate pursuant to the orders of this Court passed in Writ Petition No. 7025 of 2010 dated 05th August, 2010. It is also submitted that, the real sister

of the petitioner is also been issued with the tribe certificate.

7. Considering the above, the impugned order is quashed and set aside. The respondent No. 2 shall issue tribe certificate to the petitioner of 'Koli Mahadev' (Scheduled Tribe), which certificate will have to undergo acid test and would be verified by the Committee, wherein all the relevant aspects will have to be considered. The writ petition is disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Feb. 17