

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

BENCH AT AURANGABAD.

WRIT PETITION NO.10990 OF 2017

Yahaya Azam S/o Qurram Ahmed
Khan and others. ... Petitioners.

Versus

The State of Maharashtra
and others. ... Respondents.

...
Mr.H.D.Deshmukh, advocate for the petitioners.
Ms.R.P.Gour, A.G.P. for the State.

...

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

Date : 11.09.2017.

PER COURT :

1. Leave to amend nomenclature of
Respondent No.2.

2. Issue notice to the Respondents.

3. Learned A.G.P. waives service of notice
for all Respondents.

4. Mr.Deshmukh, learned counsel for the petitioner submits that petitioner was issued tribe certificate of Tadvi-13 by Sub-Divisional Officer, Aurangabad. The said tribe certificate was referred to the Committee for verification. The Committee cancelled the said certificate and directed to obtain the tribe certificate from Executive Magistrate, Raver. The learned counsel submits that the father of the petitioner is issued with the tribe certificate by Sub-Divisional Officer, Pathri. The said tribe certificate is also validated by the Committee. As such in view of Rule 5(2)(b) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003, the petitioner can obtain the caste certificate at the place where the petitioner has migrated.

5. Learned A.G.P. submits that as the petitioner and his parents are permanent resident of Jalgaon District, the petitioner is required to obtain validity from the said place.

6. We have considered the submissions.

Rule 5(2)(b) reads thus :

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

(1) x x x x

(a) x x x x

(b) x x x x

(c) x x x x

Explanation. - x x x x

(i) x x x x

(ii) x x x x

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

(a) x x x x

*(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 origin at the time of passing of the first Presidential Order dated the 6th September 1950 or thereafter, for Scheduled Tribes."

7. Reading the said Rule, it is manifest that if the parent or the grand parent of a candidate has been issued with the tribe certificate then the competent authority of the other District can issue tribe certificate.

8. In the present case, the father of the petitioner has been issued with the tribe certificate. The said tribe certificate is also validated by the Committee. The petitioner has also a domicile certificate at Aurangabad.

9. In light of that, the Executive Magistrate, Aurangabad has every jurisdiction to issue the said tribe certificate.

10. In light of the above, the impugned

order is quashed and set aside. The Committee shall consider the proposal of the petitioner for grant of validity certificate of Tadvil-13 (Scheduled Tribe) on its own merits and take decision upon it after hearing the petitioner expeditiously, preferably within four (4) months. The petitioner shall appear before the Committee on 25.9.2017.

11. The Writ Petition is accordingly allowed. No costs.

(MANGESH S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

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