

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

WRIT PETITION NO.10942 OF 2016

Jagdish Krushna Thakur,
Age : 40 years, Occ. Service,
r/o. Kapadne,
Tq. and Dist. Dhule,
at present r/o. 7, Gaurav Garden,
Vidya Nagar, Tq. Haveli,
Dist. Pune

..Petitioner

Vs.

Sub Divisional Officer,
Dhule, Tq. and Dist. Dhule
and ors.

..Respondents

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Mr.M.S.Deshmukh, Advocate for petitioner
Mr.P.S.Patil, AGP for respondent nos.1 and 2
Mr.V.D.Sapkal, Advocate for respondent nos.3 and 4

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AND

WRIT PETITION NO.10944 OF 2016

Jitendra Madhukar Thakur,
Age : 42 years, Occ. Service,
r/o. Kapadne, Tq. and Dist. Dhule,
at present r/o. M11/1746,
Maharashtra Housing Board,
Tq. Yerwada, Dist. Pune

..Petitioner

Vs.

Sub Divisional Officer,
Dhule, Tq. and Dist. Dhule
and ors.

..Respondents

--

Mr.M.S.Deshmukh, Advocate for petitioner

Mr.V.M.Kagne, AGP for respondent nos.1 and 2

Mr.P.K.Deshmukh, Advocate for respondent nos.3 and 4

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

DATE : MARCH 14, 2017

ORDER :

Heard.

2. Mr.Deshmukh, learned Counsel for the petitioners submits that the applications of the petitioners for issuance of tribe certificate that they belong to 'Thakur' scheduled tribe have been rejected on the ground of territorial jurisdiction. The Scrutiny Committee has also dismissed the appeal on the same ground.

3. The learned Counsel for the petitioners submits that the fathers of the petitioners in both the Writ Petitions have been issued the tribe certificates on 22.03.1978 and 19.05.1979, respectively. The learned Counsel for the

petitioners submits that as the fathers of the petitioners have been already issued the tribe certificates and subsequently, the parties migrated in another District, in such a case, the competent authority of the said District is empowered to issue the tribe certificate. The learned Counsel relies on Rule 5(2)(b) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 ("Rules of 2003", for short)

4. The learned AGP submits that considering the residential places of the fathers of the petitioners, the Committee has rightly passed the impugned order.

5. We have considered the submissions canvassed by the learned Counsel for the respective parties.

6. Rule 5(2)(b) of the Rules of 2003 and its explanation reads thus :-

(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.

Explanation.- For the purpose of this sub-rule "Migrant within the State" means-

(i) the persons who have migrated from one district to another district or from the jurisdiction of one Competent Authority to another within the State on or after the first Presidential Order dated the 6th September 1950 for Scheduled Tribes and whose parents

had been the ordinary residents of Maharashtra State.

(ii) In the case of persons born after the first Presidential Order dated 6th September, 1950, the place of ordinary residence for the purpose of acquiring Scheduled Tribes status, shall be the place of permanent abode of their father, grandfather at the time of the notification of the Presidential Order for Scheduled Tribes.

7. Considering the cited Rule, it is manifest that if the tribe certificate of the father or grandfather issued by the then competent authority of the District of his father or grandfather's origin, is produced by the applicant, the competent authority shall issue the tribe certificate in Form C to the applicant of other district from which he has migrated.

8. In view of the above, we pass the following order :-

(i) The impugned orders are quashed and set aside.

(ii) The matter is relegated before respondent no.2 – Committee. Respondent no.2 – Committee shall decide the validation proceedings in respect of the tribe claim of the petitioners on its own merits expeditiously.

(iii) The petitioners shall appear before respondent no.2 – Committee on 04.04.2017.

(iv) Till the validation proceedings are decided, the concerned respondents shall not take adverse action against the petitioners only on the ground that the validation proceedings are pending.

(v) The respondents may take further action depending on the decision that may be taken by respondent no.2 – Committee.

(vi) With these directions, both the Writ petitions stand disposed of. No costs.

[SANGITRAO S. PATIL, J.] [S.V. GANGAPURWALA, J.]

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