

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

Writ Petition No. 12479 of 2017

District : Nanded

Shubham Harikishan Sonkusre,
Age : 14 years (minor),
Occupation : Education,
Through natural guardian
i.e. Father
Harikishan Nanaji Sonkusre,
R/o. Bellori, Post Pandhara,
Taluka Kinwat, Dist. Nanded. .. Petitioner.

versus

1. Sub-Divisional Officer,
Kinwat, Taluka Kinwat,
District Nanded.
2. Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division,
Aurangabad,
Through its Member Secretary. .. Respondents.

With

Writ Petition No. 12506 of 2017

District : Nanded

Suraj Vasanta Sonkusre,
Age : 20 years,
Occupation : Education,
R/o. Bellori, Post - Pandhara,
Taluka Kinwat, Dist. Nanded. .. Petitioner.

versus

1. Sub-Divisional Officer,
Kinwat, Taluka Kinwat,
District Nanded.

2. Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division,
Aurangabad,
Through its Member Secretary. .. Respondents.

With

Writ Petition No. 12512 of 2017

District : Nanded

Gajanan Vasanta Sonkusre,
Age : 21 years,
Occupation : Education,
R/o. Bellori,
Post Pandhara,
Taluka Kinwat,
District Nanded. .. Petitioner.

versus

1. Sub-Divisional Officer,
Kinwat, Taluka Kinwat,
District Nanded.
2. Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division,
Aurangabad,
Through its Member Secretary. .. Respondents.

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Mr. Sagar S. Phatale, Advocate, for the petitioners.

*Mr. S.W. Munde, Asst. Government Pleader, for
respondent nos.01 and 02.*

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**CORAM : S.V. GANGAPURWALA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 01ST NOVEMBER 2017

ORAL JUDGMENT *(Per S.V. Gangapurwala, J.) :*

01. Rule. Rule made returnable forthwith. By consent of the learned Counsel for the parties, heard finally.

02. The application filed by the petitioners for issuance of tribe certificate is rejected. Appeal filed is also dismissed.

03. Mr. S.S. Phatale, learned Counsel appearing for the petitioners, submits that father of the petitioner in Writ Petition No. 12479 of 2017 and real uncle of the petitioners in other two writ petitions, namely, Harikishan is issued with the tribe certificate of 'Halba', Scheduled Tribe. School record of Harikishan also depose the caste being recorded as 'Halba'. Vasanta, father of the petitioners in Writ Petition Nos. 12506 and 12512 of 2017, was illiterate. The Committee has not considered any of the documents while passing the impugned orders.

04. The learned Asst. Government Pleader supports the impugned orders.

05. We have gone through the orders passed by the Committee. Time and again we have directed the Committee to decide the application for caste / tribe certificate based on the documents submitted by the parties. There cannot be a thumb rule that only if documents prior to independence are produced, then only the certificate is to be granted. At the time of issuance of tribe / caste certificate, the authority has to be prima facie satisfied. Even otherwise, the said certificate has to face the test of scrutiny at the time of verification by the Committee.

06. In the present case, father of the petitioner in Writ Petition No. 12479 of 2017 and real uncle of the petitioners in other two writ petitions have already been issued with the tribe certificate of 'Halba'. The school record of the petitioner, so also Harikishan records caste as 'Halba'.

07. Considering the above, the Writ Petitions are allowed. The impugned orders passed by respondent no.01 - Sub-Divisional Officer and respondent no.02 - Committee are quashed and set aside. The respondent no.01 - Sub-Divisional Officer is directed to issue tribe certificate to the petitioners as belonging to 'Halba', Scheduled Tribe, which naturally will have to be verified by the Committee.

(Judgment)

(5)

W.P. Nos. 12479, 12506 &
12512 of 2017 of 2017

08. Rule made absolute in the above terms.
There shall be no order as to costs.

(Smt. Vibha Kankanwadi)
JUDGE

(S.V. Gangapurwala)
JUDGE

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