

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

WRIT PETITION NO. 12391 OF 2016

Kanhopatra D/o Kashinath Iralwad .. 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 to 3.

Shri P. B. Jadhav, Advocate for the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.**

DATE : 27TH FEBRUARY, 2017.

PER COURT :

. The tribe claim of the petitioner as belonging to Mannervarlu (Scheduled Tribe) was referred to the Committee. The Committee cancelled and confiscated the said certificate with liberty to the petitioner to obtain the same from the appropriate authority, on the ground that the applicant is permanent resident of village Jamb (Bk), Tq. Mukhed.

2. Mr. Vibhute, the learned counsel for the petitioner states that, the father of the petitioner has been issued with the tribe certificate of Mannervarlu (S.T.) by the Tahsildar Mukhed on 28.02.1980. The petitioner had applied for tribe certificate to the

authority at Aurangabad and the same is issued to the petitioner on 20th September, 2006. The learned counsel submits that, the order of the Scrutiny Committee is bad in law, in view of Rule 5(2)(b) of the Maharashtra Scheduled Tribe (Regulation of Issuance and Verification of) Certificate Rules 2003 (for short "Rules of 2003").

3. The learned Additional Government Pleader submits that, as the petitioner is permanent resident of Taluka Mukhed, he ought to have obtained the certificate from the authority at Mukhed.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. Rule 5(2)(b) of the Rules of 2003 reads as under :

**The Maharashtra Scheduled Tribe (Regulation
of Issuance and Verification of) Certificate
Rules 2003**

1.

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

(1)

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

(a)

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

6. In the present case, the father of the petitioner has been issued with the tribe certificate as belonging to Mannervarlu (S.T.) by the competent authority of Mukhed.

7. In view of Rule 5(2)(b) of Rules of 2003, the petitioner could have applied for tribe certificate to the competent authority of another district also. The tribe certificate has been issued to the petitioner by the Deputy Collector, Aurangabad. The same would be legal and valid as per Rule 5(2)(b) of the Rules of 2003. The committee ought to have decided the matter on merits.

8. In the light of the above, the impugned order is quashed and set aside. The Committee shall decide the tribe claim of the petitioner on its own merits, in accordance with law. The petitioner shall appear before the Committee on 08th March, 2017. The committee shall endeavour to dispose of the proceedings

expeditiously and preferably within a period of nine (09) months from the date of appearance. The petitioner shall co-operate in expeditious disposal of the said proceedings. Till the validation proceedings are decided, the respondent No. 4 shall not take any adverse action against the petitioner only on the ground that validation proceeding is pending. The respondent No. 4 can take further course of action in tune with the judgment that would be delivered by the Committee. The writ petition is disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]