

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12738 OF 2016

Dhanraj s/o Sidram Koli, Aged 19 **Petitioner**
Years, Occupation Student, Resident
of Plot No.18, Pratap Nagar,
Shahanurwadi, Aurangabad

V E R S U S

- 1 The State of Maharashtra, Through **Respondents**
its Secretary, Tribal Development
Department, Mantralaya, Mumbai-32
- 2 Indian Institute of Technology
Madras Chennai-600 036 (Tamil Nadu
State), Through its Registrar
- 3 The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad, Through its
Member Secretary
- 4 The Sub-Divisional Officer,
Aurangabad Division, Aurangabad

Mr. Pratap G. Rodge, Advocate for the petitioner
Mr. P.S. Patil, A.G.P. for the respondents/State

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

DATE : 7th MARCH, 2017

ORAL JUDGMENT (PER: S.V. GANGAPURWALA, J.) :

1. Rule. Rule made returnable forthwith. With the consent of the parties, this petition is taken up for final hearing.

2. Mr. Rodge, learned counsel for the petitioner submits that the petitioner belongs to Koli Mahadev (S.T.) caste. The proposal of the petitioner was referred to the Aurangabad Committee for validation. The Scheduled Tribe Certificate Scrutiny Committee, Aurangabad, cancelled and confiscated the Tribe Certificate issued to the petitioner on the ground that the petitioner is permanent resident of Akkalkot, District Solapur, and therefore, the Tribe Certificate was required to be issued by the authority of District Solapur. The Tribe Certificate was issued to the father of the petitioner by the S.D.O., Aurangabad, and the said Tribe Certificate is also validated by the Committee. Even the validity Certificate has been issued to the real sister of the petitioner as she belongs to Koli Mahadev (S.T.). It was erroneous on

the part of the Committee to cancel and confiscate the Caste Certificate on the said ground.

3. Learned A.G.P. submits that as the petitioner is permanent resident of Akkalkot, District Solapur, he is required to obtain the Tribe Certificate from the said place. The Committee has also given liberty to obtain the Certificate from the said place.

4. We have considered the submissions of the learned counsel for respective parties. The fact that the Tribe Certificate was issued to the father of the petitioner by the S.D.O., Aurangabad and that said Tribe Certificate has been validated, is also not disputed. Even the Tribe Certificate has been issued to the real sister of the petitioner as 'Mahadeo Koli', Scheduled Tribe. Rule 5 (2) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003, reads as under:-

“Rule 5 (2) – Migration from one district to another district or from the jurisdiction of

one Competent Authority to another within the State, -

- (a) The competent Authority if satisfied may issued Scheduled Tribe Certificate in Form C to an applicant who has migrated from one district to another district or from the jurisdiction of one Competent Authority to another, within the State, on production of the Scheduled Tribe Certificate issued to his father or grandfather, by the concerned Competent Authority of that district.
- (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."

5. Competent authority is entitled to issue Scheduled Tribe Certificate to the applicant who has migrated from one district to another district and or from the jurisdiction of one competent authority to another within the State on production of the Scheduled Tribe Certificate issued to father or grandfather by the competent authority. In view of the said Rule, the Tribe Certificate issued in favour of the petitioner by S.D.O., Aurangabad is legal and valid. The Committee ought to have decided the said validation proceedings on it's own merits.

6. Considering the above facts, the impugned order is quashed and set aside. The Scheduled Tribe Certificate Scrutiny Committee, Aurangabad shall decide the validation proceedings in respect of Tribe Claim of the petitioner afresh on it's own merits, in accordance with Law expeditiously and preferably within eight months from today. The petitioner shall appear before the Scheduled Tribe Certificate Scrutiny Committee on 29th March, 2017. Till validation proceeding of the petitioner is decided, the

Institution shall not take any adverse action against the petitioner. Of course, the respondent No.2 – Institution can take further course of action on the basis of Judgment delivered by the Committee in the Validation proceedings.

7. Rule made accordingly absolute in above terms. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)