

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

WRIT PETITION NO. 61 OF 2017

1. Mahesh Ganesh Jamadar
Age 16 years, Occu: Education,
R/o Pathardi Tq. Kallam,
Dist. Osmanabad.
2. Rushikesh Ganesh Jamadar **... Petitioners**
Age 22 years, Occu: Education,
R/o Pathardi Tq. Kallam,
Dist. Osmanabad.

Both petitioners are
represented through father:
Shri Ganesh tukram jamadar
Age 47 Years, Occu: Service
R/o Pathardi Tq. Kallam
Dist. Osmanabad.

VERSUS

1. The Sub Divisional Officer,
Kallam, Tqluka Kallam
District Osmanabad
2. Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad,
Through its Member Secretary

Mr. Sagar S. Phatale, Advocate for the petitioner,
Mr. P.S. Patil, Addl. G. P. for the State.

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

DATE : 23rd January, 2017

JUDGMENT:

1. Heard the learned counsel for the parties.

2. Rule. Rule made returnable forthwith. With consent of parties, the petition is taken up for final disposal.

3. The petitioners had applied for issuance of tribe certificate of Koli Mahadeo Scheduled Tribe. The said application is rejected. The appeal filed by the petitioners is dismissed by the Committee. Aggrieved thereby, the present petition.

4. Mr. Phatale, the learned counsel for the petitioners states that the documents, which are referred to in the order of the Committee are not in respect of the relatives of the present petitioners but are of third persons. The father of the petitioners has been issued the tribe certificate as per orders of this court as belonging to Koli Mahadeo, Scheduled Tribe. The school record of the petitioners shows the caste as Koli Mahadeo. School record of the father of the petitioner also shows caste as Koli Mahadeo. Even the service book of the petitioner's father mentions caste as Koli Mahadeo. Only on the basis of the documents of some other persons collected by the Vigilance, Tribe Certificate is denied to the petitioners.

5. Mr. Patil, the learned AGP states that the

committee has considered all the aspects of the matter and has rightly rejected the application of the petitioners by dismissing the appeal.

6. We have considered the submissions.

7. It is trite that at the time of issuance of tribe certificate, the standard of proof required would not be the same as required while obtaining the validity certificate, prima facie enquiry, though is required to be made. Even after the tribe certificate is issued, the documents will have to undergo acid test during the validation proceedings. In the present matter, father of the petitioner has been issued tribe certificate of Koli Mahadeo as per directions of this Court. The school record of the petitioners and their father shows the caste being recorded as Koli Mahadeo. The petitioners states that the documents which were referred by the Committee are not in respect of their relatives.

8. Considering the aforesaid facts commutatively, the impugned orders are quashed and set aside.

9. Respondent No.1 Sub Divisional Officer, Kallam shall issue Tribe Certificate to the petitioners as

belonging to "Koli Mahadeo' Scheduled Tribe. The same certainly will have to under go validation proceedings.

10. Rule is accordingly made absolute in above terms. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC