

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

WRIT PETITION NO. 5596 OF 2017

Shaligram Shivram Chitte

Age : 44 years, Occu. Service,

R/o. CIDCO, Nanded, Tq. & Dist. Nanded,

At present R/o. Onkar Mitramandal,

Chal No. 11, Room No. 19,

Kamgar Kalyan Hospital Road,

Thane (West), Dist. Thane.

Petitioner...

Versus

1. Scheduled Tribe Certificate Scrutiny Committee,
Aurangabad, through its Member Secretary

2. Sub Divisional Officer,
Shindkheda, Tq. Shindkheda, Dist. Dhule.

3. Divisional Engineer,
Customer Care (G-North),
Brihan Mumbai Electric Supply &
Transport Undertaking,
Lokmanya Tilak Marg,
Dadar, Mumbai.

Respondents...

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Mr Sagar S. Phatale, Advocate for the petitioner

Mr P. K. Lakhotiya, AGP for respondent/State

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**CORAM : R. M. BORDE &
A. M. DHAVAL, JJ.**

DATE : 8TH JUNE, 2018.

ORAL JUDGMENT [PER R. M. BORDE, J.] :-

. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties and taken up for final disposal at the stage of admission.

2. The petitioner is objecting to the decision recorded by the Scheduled Tribe Certificate Scrutiny Committee, Region Aurangabad, on 26.07.2016, directing the petitioner to secure tribe certificate from the Sub Divisional Officer empowered to issue the certificate since the petitioner is found to be permanent resident of village Zotwade, Tq. Shindkheda, Dist. Dhule. The certificate issued to the petitioner by the Sub Divisional Officer, Nanded, Dist. Nanded, has been cancelled and confiscated. The petitioner contends that, his father has been issued a tribe certificate by Tahsildar and Executive Magistrate, Tq. Shindkheda. The family, it appears that, has migrated from Shindkheda and has moved to Nanded district. The petitioner applied for issuance of tribe certificate to the Sub Divisional Officer, Nanded and on consideration of his application, he was issued the tribe certificate on 10.06.2011 by the concerned official. Apart from the petitioner, his real brother was also issued the tribe certificate by the Sub Divisional Officer, Nanded on 03.08.2009. The certificate issued to the brother of the petitioner was submitted for verification to the Caste Scrutiny Committee at Aurangabad and after scrutinizing the claim of the real brother of the petitioner, the Scrutiny Committee, Aurangabad, has issued a certificate of validity.

3. In identical circumstances, the Division Bench of this Court in the matter of **Kanhopatra D/o Kashinath Iralwad Versus The State of Maharashtra & Ors. [Writ Petition No. 12391 of 2016]** decided on 27.02.2017, quashed the decision of the Scrutiny Committee and directed the Committee to decide the claim on its own merits and in accordance with law. The Division Bench has considered Rule 5(2)(b) of the Maharashtra Scheduled Tribe (Regulation of Issuance and Verification of) Certificate Rules, 2003 and has concluded that, the applicant who has migrated from one place to another is entitled to claim issuance of the certificate from the competent officer having jurisdiction to issue the certificate at the place of migration.

4. Considering the view expressed by the Division Bench in the matter referred to above, the instant petition of the petitioner also deserves to be allowed. The order impugned is quashed and set aside. The Scrutiny Committee is directed to decide the tribe claim of the petitioner on its own merits and in accordance with law. The petitioner undertakes to cause appearance before the Scrutiny Committee on 18.06.2018 and as such no separate notice requiring his presence before the committee shall be necessary. The Scrutiny

Committee shall decide the validation claim of the petitioner, as expeditiously as possible, preferably within nine months from today. In the meanwhile, until the decision of the Scrutiny Committee in respect of validation claim of the petitioner, no adverse action be taken against him only on the ground of his failure to submit validity certificate.

5. Rule is accordingly made absolute in the aforesaid terms.
No order as to costs.

[A. M. DHAVALE]
JUDGE

[R. M. BORDE]
JUDGE

Punde