

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

WRIT PETITION NO.11861 OF 2018

Sachin s/o. Manik Atkulwad,
Age: 19 Years, Occ. Education,
R/o. Bhagnoorwadi, Tq.Mukhed,
Dist. Nanded.

.. PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Medical Education Department,
Mantralaya, Mumbai.

2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Member Secretary,
Aurangabad.

.. RESPONDENTS

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Mr.O.B.Boinwad, Advocate for the Petitioner
Mr.P.S.Patil, Addl.G.P. for the Respondent-
State

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**CORAM: S.S.SHINDE &
K.K.SONAWANE, JJ.**

Reserved on : 14.12.2018
Pronounced on : 20.12.2018

ORDER: [Per S.S.Shinde, J.]:

1] This Petition takes exception to the judgment and order dated 18th July, 2018, passed by respondent no.2 Committee, invalidating the tribe claim of the petitioner of "Koli Mahadev" Scheduled Tribe, and seeking directions against respondent No.2 Committee to issue Tribe Validity Certificate of "Koli Mahadev" Tribe in favour of the petitioner.

2] Learned counsel appearing for the petitioner submits that, the Vigilance Cell report was supplied to the petitioner after personal interview / hearing, and therefore, the respondent No.2 – Committee has violated the provisions of Rule 12 [8] of the Maharashtra Scheduled Tribes [Regulation of Issuance and Verification of] Certificate Rules, 2003 [for short 'Rules of 2003'] and the provisions of the Maharashtra Act

No.23/2001. Learned counsel appearing for the petitioner further submits that, the voluminous document was submitted before the respondent no.2 – Committee, which would clearly show that, grandfather, father and relatives of the petitioner belong to “Koli Mahadev” Scheduled Tribe. It is submitted that, pre-independence documents were also submitted showing the entry of “Koli Mahadev” in the record of grandfather of the petitioner.

3] On the other hand, learned Additional Government Pleader appearing for the respondent–State submits that, the Supreme Court issued directions to respondent no.2 – Committee to decide the tribe claims expeditiously, and therefore, respondent no.2 – Committee could not strictly adhere to the provisions of Rule 12 [8] of the Rules of 2003.

4] We have given careful consideration to the submissions of the learned counsel appearing for the petitioner, and learned Additional Government Pleader appearing for the respondent—State. Perused the pleadings in the Petition, annexures thereto, and the judgment of respondent No.2—Committee. We do not wish to enter upon the merits of the contentions raised in the Petition. Since according to us, respondent no.2 – Committee has not adhered to the Rule 12 [8] of the Maharashtra Scheduled Tribes [Regulation of Issuance and Verification of] Certificate Rules, 2003, we are inclined to remand the matter back to the Committee for deciding afresh after following due procedure of law.

5] At this juncture, it is apt to make reference to the order passed by the Division Bench of Principal Seat at Mumbai [Coram : Shantanu Kemkar & N.W.Sambre, JJ.] in Writ

Petition No.7515 of 2018, decided on 24th July, 2018, wherein, in the facts of that case, the Court noticed that the respondent Committee therein did not give requisite time to reply to the show cause notice issued to the petitioner under Rule 12 [3] of the Rules of 2003, and therefore, the Division Bench allowed the said Writ Petition and matter was remanded back to the respondent—Committee for fresh consideration. Adopting the same course, we set aside the impugned decision / order dated 18th July, 2018, passed by respondent no.2 and remand the matter back to respondent no.2 – Committee for deciding afresh after following due procedure of law.

6] The Writ Petition is allowed to the extent indicated above.

7] The petitioner to appear before respondent no.2 – Scheduled Tribe Caste Certificate Verification Committee,

Aurangabad, on 18th January, 2019 at 11.00
a.m.

8] The Committee to decide the
petitioner's claim within four months from
the date of appearance.

[K.K.SONAWANE]
JUDGE

[S.S.SHINDE]
JUDGE

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