

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

WRIT PETITION NO.11999 OF 2018

Shweta Shivajirao Marakwad,
Age 19 years, Occu : Student,
R/o Block Development Officer,
Panchayat Samiti, Partur, Tq. Partur,
District Jalna.

... **Petitioner**

Versus

1. The State of Maharashtra,
Through Its Secretary,
Tribal Development Department
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad Division,
Aurangabad,
Through its Member Secretary. ... **Respondents**

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Mr. M.A.Golegaonkar & Mr. A.S.Golegaonkar, Advocates
for Petitioner

Mr. P.S.Patil, AGP for Respondents–State

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**CORAM : R.M.BORDE AND
MANGESH S. PATIL, JJ.**

DATE : 25.10.2018

ORAL JUDGMENT : (Per R.M.Borde, J.) :-

1. Heard. Rule. Rule returnable forthwith. With the consent of parties, the Petition is taken up for final disposal at the admission stage.

2. The petitioner claims to belong to “Mannervarlu Scheduled Tribe” and is in the receipt of the Tribe Certificate issued by Sub-Divisional Officer, Jalna. The Tribe Certificate issued to the petitioner was forwarded to the Scrutiny Committee for verification, however, the Scrutiny Committee has refused to verify the Tribe Certificate holding that the petitioner is permanent resident of Hatral, Taluka Mukhed, District Nanded on the date of notification i.e. on 06.09.1950 and as such petitioner shall have to obtain the Tribe Certificate from the Sub-Divisional Officer, Mukhed and the Sub-Divisional Officer, Jalna has no jurisdiction to issue the certificate. It is not a matter of dispute that father of the petitioner is in receipt of the Tribe Certificate issued by the competent authority at Mukhed on 26.12.1990. The tribe Certificate issued to the father of the petitioner has been verified by the Scrutiny Committee and the certificate of the validity has been issued on 02.08.2004. In case of brother of the petitioner by name Shubham Shivajirao Marakwad, the Committee has

taken a similar view as in the case of the instant matter and refused to verify the tribe certificate issued to him by the Sub-Divisional Officer, Jalna. The brother of the petitioner by name Shubham preferred a Writ Petition No.9273 of 2018 before this Court and the Division Bench of this Court, by an order dated 09.08.2018, allowed the petition presented by the brother of the petitioner and quashed and set aside the order passed by the Scrutiny committee and remitted the matter back to the Scrutiny Committee with a direction to take decision on the merits of the claim. The Division Bench, while dealing with the matter presented by brother of the petitioner, has placed reliance on the Rule 5(2)(b) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of Certificate) Rules, 2003 which reads thus ;

“5(2)(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.”

3. Since the father of the petitioner is in receipt of the Tribe Certificate issued by Taluka Executive Magistrate, the place of his original residence and as such it was not necessary to insist upon for securing the certificate from the same officer. The issuing authority at the place, where the petitioner has migrated, would be competent to issue the certificate.

4. In view of the facts noted as above, the petition presented by the petitioner deserves to be allowed and same is accordingly allowed. The order passed by the Scrutiny Committee on 29.04.2017 is quashed and set aside. The Scrutiny Committee is directed to record the decision in respect of the validation of the Tribe Certificate issued to the petitioner on its own merit and in accordance with provisions of law. The Committee shall not refuse to verify the certificate on any technical ground and shall render its decision on its merits.

5. With the directions as above, the Writ Petition is disposed of. Rule is made absolute to the extent as specified above. There shall be no order as to costs.

(MANGESH S. PATIL, J.)

(R.M.BORDE, J.)

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vmk/-