

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

965 WRIT PETITION NO. 9273 OF 2018

SHUBHAM SHIVAJIRAO MARAKWAD

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER..RESPONDENTS

...

Mr. Madhur A. Golegaonkar and Mr. Anil S. Golegaonkar, Advocates for the Petitioner.

Mr. N. T. Bhagat, AGP for Respondent-State.

...

**CORAM : S. V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.**

DATED : 09th AUGUST, 2018.

PER COURT:-

1. Mr. Golegaonkar, learned counsel for the petitioner submits that the caste certificate has been cancelled and confiscated by the committee on the ground that the Sub Divisional Officer issuing the certificate did not possess territorial jurisdiction to issue the caste certificate. The learned counsel submits that the father of the petitioner is issued with the caste certificate by Taluka Executive Magistrate, Mukhed, Dist. Nanded. The learned counsel relies on the Rule 5(2)(b) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of Certificate) Rules, 2003.

2. We have also heard the learned A.G.P.

3. It appears that, the father of the petitioner has been issued with the caste certificate by the Taluka Executive Magistrate, Mukhed. The committee has observed that the petitioner is permanent resident of Hatral, Tq. Mukhed, Dist. Nanded and ought to have obtained the caste certificate from the said place.

4. Rule 5(2)(b) of Rules of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of Certificate) Rules, 2003 reads thus:

"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 Tribe."

5. As the father of the petitioner is issued with the tribe certificate by Taluka Executive Magistrate, the place of original residence, then the Sub Divisional Officer of the place, where the person has migrated would be competent to issue the certificate.

6. In light of the above, the impugned

communication is quashed and set aside, the petitioner is relegated before the committee. The committee shall decide the validation proceeding in respect of tribe claim of the petitioner on its own merits.

7. Writ Petition is disposed of. No costs.

(SUNIL K. KOTWAL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/August-18