

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 7967 OF 2018

Nishtha Mahesh Keny.

... Petitioner.

V/s.

State of Maharashtra and Ors.

... Respondents.

With

WRIT PETITION NO. 7968 OF 2018

Nihar Mahesh Keny minor

Through his father and natural

Guardian Mahesh Ashok Keny.

... Petitioner.

V/s.

State of Maharashtra and Ors.

... Respondents.

Mr. C.K. Bhangoji for the Petitioners in both Petitions.

Mr. V.S. Gokhale, 'B' Panel Counsel for Respondents 1 to 3.

***CORAM : R.M. Borde and
V.M. Deshpande, JJ.***

DATE : 26 July, 2018.

P.C. :-

Heard.

2. Rule. With the consent of the parties, both the Petitions are taken up for final disposal.

3. In both these Petitions the Petitioners are objecting to the separate orders passed by the Sub-Divisional Officer, Mumbai Suburban District, rejecting their request for issuance of the Tribe Certificate recording the correct description of the tribe therein. The Petitioner's claim has been turned down by order dated 6th July 2018 and 3rd November 2017 respectively.

4. Both the Petitioners belong to Koli Mahadev Scheduled Tribe. They were issued separate tribe certificate by the Competent Authority certifying that they belong to Mahadev Koli Scheduled Tribe. The entry recorded in the Scheduled Tribe Order in respect of concerned tribe is Koli Mahadev and not Mahadev Koli. As a result of incorrect recording of the name of the tribe in the certificate by the Competent Authority, the Tribe Certificate Validation proposals tendered by the Petitioners to the Scrutiny Committee have been turned down with liberty to the Petitioners to secure proper certificate describing the correct name of the tribe and produce the same for verification to the Scrutiny Committee. The Sub-Divisional Officer, however, has rejected the request of the Petitioners for issuance of the tribe certificates for the reasons recorded in the order.

5. The issue raised in the instant Petitions is no more *res-integra* and is covered by the decision of this Court in Writ Petition No. 4536 of 2014 decided on 14.08.2014 at Aurangabad.

6. The order passed by the Sub-Divisional Officer is unsustainable and deserves to be quashed and set aside. The Petitioners are already in possession of the tribe certificate issued by the Competent Authority recording therein that they belong to Mahadev Koli tribe. However, the concerned Competent Authority recorded incorrect description of the tribe in the certificate. The clerical error that has occurred while issuing the certificate on earlier occasion needs to be corrected and the Petitioners shall have to be issued proper certificates without initiating further enquiry..

7. For the reasons recorded above, the Writ Petitions are allowed. The orders impugned in these Petitions passed by the Sub-Divisional Officer, refusing to issue the tribe certificate as requested by the Petitioners are quashed and set aside.

8. The concerned Sub-Divisional Officer/Deputy Collector is directed to issue tribe certificates as requested by the Petitioners certifying that they belong to Koli Mahadev tribe, without embarking upon further enquiry, as expeditiously as possible within

four weeks from today. On receipt of the tribe certificates, it would be open for the Petitioners to tender a proposal to the concerned Scrutiny Committee for validation of the tribe certificates either Online as well as in physical form. The Scrutiny Committee shall accept the proposal tendered directly by the Petitioners and shall proceed to scrutinize the same and render decision in the matter after extending opportunity of hearing to the Petitioners as expeditiously as possible preferably within a period of eight months from the date of submission of the proposal.

9. With the directions as above, both the Writ Petitions are disposed of. Rule is made absolute to the extent as specified above. There shall be no order as to costs.

(V.M. Deshpande, J.)

(R. M. Borde, J.)

Jyoti
Prakash
Pawar

Digitally signed
by Jyoti Prakash
Pawar
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2018.08.03
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