

IN THE HIGH COURT OF JUDICATURE AT BOMBAYNAGPUR BENCH : NAGPUR**WRIT PETITION NO. 180 OF 2016.**(Hemraj Vasant Shahare .vs. The Union of India & others)WITH**WRIT PETITION NO. 4625 OF 2016.**(Adiwasi Binjhwar (Injhwar) Samaj Samiti .vs. The Union of India & others)WITH**WRIT PETITION NO. 6409 OF 2016.**(Ramesh Kanuji Meshram .vs. The State of Maharashtra & others)

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Office Notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's orders

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Mr. R.K. Borkar, Advocate for petitioner (in WP. 180/16),  
Mr. R.S. Parsodkar, Advocate for petitioner (in WP. 4625/16),  
Mr. V.R. Choudhari, Advocate for petitioner (in WP. 6409/16),  
Mr. A. M. Joshi, Advocate for respondent no.1 (in WP. 180/16),  
Ms. N.P. Mehta, A.G.P. for respondent nos. 2 to 5 (in WP. 180/16),  
nos. 2 & 4 (in WP. 4625/16) & nos. 1 to 3 (in WP. 6409/16),  
Mr. S.A. Chaudhari, Advocate for respondent nos.1 & 3 (in WP.  
4625/16).

**CORAM : B.P. DHARMADHIKARI & MRS. SWAPNA S. JOSHI, JJ.**

**DATED : FEBRUARY 24, 2018.**

1] We find that this Court vide its order dated 31.1.2011 in Writ Petition No. 1930/10 has taken note of stand of State Government and, therefore, disposed of that Writ Petition with hope that Central Government would process the papers as early as possible.

2] The events till then or even prior thereto show that the State Government was accepting that words 'Binjhwar' and 'Injhwar' referred to one and same tribal community. The Tribal Research & Training Institute, therefore, gave no objection to submit a proposal to Central

Government after approval of Tribal Advisory Committee to accordingly amend the list of tribal community. This no objection is contained in letter dated 11.11.2002 sent by Commissioner to Secretary to Government, Tribal Development Department, Maharashtra.

3] Letter then remained pending and for the purposes of this order, we need not mention intervening events. In Writ Petition No. 1930/10 on 31.1.2011 this Court has reproduced paragraph nos. 4 & 5 of affidavit dated 28.1.2011 filed by Deputy Director and Member Secretary, Scheduled Tribe Caste Verification Committee, Nagpur. Therein it has been mentioned that the communication received from Commissioner, Tribal Research and Training Institute was forwarded to Government of India on 31.5.2010. In view of this development in anticipation that Central Government would expedite consequential action, Writ Petition No. 1930/10 was disposed of.

4] Thereafter surprisingly the Tribal Development Department, Government of Maharashtra has on 23.2.2012 turned around and did not accept proposal to include Injhwari as synonym of Binjwar. The Central Government has in affidavit dated 6.1.2017 filed before this Court in Writ Petition No. 4625/16, therefore, found itself unable to carry out the correction as sought for by petitioners.

5] The letter dated 23.2.2012 has been pointed out to this Court for the first time in present challenge which is pending since 2016. History of litigation shows that efforts by petitioners to have necessary correction in the list are going on since at least 15.5.2001. This period of more than 17 years is to expire now.

6] In letter dated 23.2.2012 the Deputy Secretary to Government of Maharashtra has informed Central Government that vide letter dated 23.12.2005 Commissioner, Tribal Research &

Training Institute, Pune had informed the Government that customs, culture, conventions, Gods and Deities and conventional professions of both communities are different. It was informed that Injhwari community does not fulfil norms for their inclusion in Scheduled Tribe as laid down by Government of India on 26.2.1981. The State Government, therefore, has informed Under Secretary to Government of India on 23.2.2012 that Injhwari community cannot be included in list of Scheduled Tribes and it cannot be accepted as synonym of Binjwar.

7] Thus, after this Court passed an order on 31.1.2011 in Writ Petition No. 1930/10, on the basis of communication of State to Government of India dated 31.5.2010, an earlier communication dated 23.12.2005 by Commissioner, Tribal Research has been taken out and the further consideration of controversy by Central Government has been avoided. Obviously, this communication dated 23.12.2005 appears to be contrary to the letter dated 31.5.2010 or then earlier communication dated 11.11.2002 already mentioned supra.

8] We, therefore, find that the State Government itself has not taken any firm stand in this respect. When this Court was given a particular impression and was made to pass an order on 31.1.2011 in Writ Petition No. 1930/10, any change in stand also should have been pointed out to this Court.

9] In this situation, as issue is pending since last 17 years, and State Government has avoided to take any consistent stand on the issue, we find it proper to direct respondent Union of India to call relevant records from respondent State and respondent Commissioner, Tribal Research & Training Institute and to take suitable decision on entire controversy at the earliest.

10] Only to facilitate that exercise, we direct the respondent State and respondent Commissioner, Tribal Research & Training Institute to forward all papers to respondent Union of India for its further processing as per law within four weeks from today. After receipt of those papers, respondent Union of India shall proceed to examine the controversy as per law. If necessary, an opportunity of hearing shall be extended to petitioners and other groups interested in the matter by issuing a public notice.

11] The exercise shall be completed within six months from the date of communication of this order to respondent Union of India.

12] Accordingly, the Writ Petitions are partly allowed and disposed of.

**Judge**

**Judge**

J.