

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

WRIT PETITION NO. 1063 OF 2019

- 1) Abhijeet s/o Kalyan Jagtap,
Age 17 years, Occ. Education.
- 2) Aditya s/o Kalyan Jagtap,
Age 16 years, Occ. Education.
- 3) Aniket s/o Kalyan Jagtap,
Age 11 years, occ. Education.
Petitioners are minor though
their natural guardian i.e. father
Kalyan Shrimant Jagtap,
Age 45 years, Occ. Private service,

All r/o. Itkur, Tq. Kallam, Dist.
Osmanabad.

... **Petitioners.**

Versus

1. Sub Divisional Officer, Kallam,
Tq. Kallam, Dist. Osmanabad.
2. Scheduled Tribe Certificate,
Scrutiny Committee, Aurangabad,
Division, Aurangabad.

... **Respondents.**

...

Mr. Phatale Sagar S., Advocate for petitioners.
Mr. V. S. Badakh, A.G.P. for respondents.

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.
DATE : 25th JANUARY, 2019.**

ORAL ORDER :

1. Heard learned counsel for petitioners.

2. The petitioners come before this Court through their natural guardian, father. The petitioners are the minor students, studying in various standards. Along with necessary documents like school record, certificate issued by the Gram Panchayat, the father of the petitioners submitted an application to Sub-Divisional officer, Kallam, for issuance of caste certificate. Learned counsel for petitioner submitted that only on a mechanical appreciation of all the documents submitted by the petitioner, which are of post independent era, are not treated as a material in favour of the petitioners by the Sub-Divisional Officer. The Sub-Divisional Officer then assigned another reason namely, the petitioners were the residents of the area of Sub-Division Kallam and Washi Taluka prior to the deemed date.

3. Being aggrieved by the order of the Sub-Divisional Officer, an appeal was preferred before the Scrutiny Committee. The learned counsel for petitioner then invited out attention to an application submitted by the petitioner to the Scrutiny Committee on 17.12.2018. On perusal of the copy of application placed on record at Annexure 'D' shows that the petitioner had filed an appeal on 12.09.2018 and its scheduled date of hearing was 17.12.2018. The petitioner submitted in the application that the petitioner is presenting the documents namely an affidavit and validity certificate. It is submitted that the

validity certificate is issued in favour of uncle of the petitioners by the competent Scrutiny Committee. Then by inviting our attention to the copy of affidavit, it is submitted that the family tree is also brought to the notice of the Committee, wherein, a reference is made that the cousin of petitioners, Ravikant, is a validity certificate holder. Learned counsel for petitioners then submitted that inspite of submitting these material documents to the committee and also bringing this fact to the notice of committee by way of application and affidavit, the committee mechanically proceeded to decide the validity and only by affirming the reasons assigned by the Sub-Divisional Officer, the appeal was dismissed.

4. On perusal of the order of the Committee, we find considerable merit in the submissions of learned counsel for the petitioner. The petitioner refers to the order of Sub-Divisional Officer and then reiterating the reasons of the Sub-Divisional Officer, namely, the petitioner failed to submit any document prior to 06.09.1950 and then by referring the government resolutions of 1984 and 1994, dismissed the appeal. There is no reference to material in the form of affidavit and validity certificate, submitted to the committee. The counsel for the petitioner is justified in submitting that as the committee mechanically approached to the claim, the order passed by

the Committee is unsustainable.

5. Accordingly, we allow the petition partly.

6. The order of the committee is quashed and set aside.

7. The committee is directed to pass orders afresh, considering the documents placed on record namely, the validity certificate issued in favour of the nearest blood relatives of the petitioners. This exercise be completed as early as possible and not later than eight weeks, from the date of order of this Court.

8. Learned counsel for petitioners on instructions submits that the petitioner would appear before the committee on 08.02.2019.

9. With the above directions, the writ petition is disposed of.

(S. M. GAVHANE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

mkd