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

WRIT PETITION NO.1036 OF 2019

1. Aishwarya d/o Ganesh Thakur,
Age-20 years, Occ. Student,
R/o Plot No.21, Shraddha Nagar,
Jamner Road, Bhusawal,
Tq. Bhusawal, Dist. Jalgaon.

2. Harshal S/o Ganesh Thakur,
Age – 19 years, Occ. Student
R/o As above

3. Anushri d/o Ganesh Thakur,
Age – 24 years, Occ. Student,
R/o As above

..PETITIONERS

VERSUS

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai- 32.
Through its Secretary.

2. The Sub Divisional Officer,
Bhusawal Division, Bhusawal,
Tq. Bhusawal, Dist.Jalgaon.

..RESPONDENTS

Mr S.C.Yeramwar, Advocate for petitioners;
Mr S. S. Dande, A.G.P. for respondents

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 24th January, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioners.

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2. The petitioners are the students prosecuting their studies in different courses. A limited grievance is raised in the petition. The caste certificate is issued by the Sub Divisional Officer, Bhusawal in the year 2005 to petitioner No.1 - Aishwarya Ganesh Thakur, who was desirous of having a caste validation certificate so as to secure admission in the professional course, namely, Medicine. Accordingly, the application was submitted by way of on-line process to the competent scrutiny committee. A copy of the application as well as the copy of a certificate issued by the Headmistress, Ashoka Universal School, Nashik is placed on record to submit that Ms. Aishwarya was the bona fide student of the school in the year 2014-2015 and 2015-2016. It is stated in the petition that on approaching to the scrutiny committee for validation of the caste claim along with the documents, it was informed to the petitioner No.1 that the caste certificate submitted by petitioner No.1 - Aishwarya is not in the Form 'C', as per the Government Resolution dated 22nd June, 2016 and the committee is unable to accept the proposal. It is also stated in the petition that the copy of the Government Resolution dated 22nd June, 2016 is supplied to the petitioner by the Committee. The copy of the Government Resolution dated 22nd June, 2016 is placed on record. Learned Counsel for the petitioner, by inviting our attention to the said Resolution dated 22nd June, 2016, submitted that the Resolution only refers that, if the competent authority had issued a certificate which is not in consonance with the verification Rules of 2003, such certificate be collected from the candidate and the necessary exercise

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of issuance of certificate in consonance of Rules 2003 be undertaken by the competent authority immediately.

3. Learned Counsel for the petitioners then submitted that the father of the petitioners submitted an application to the Sub Divisional Officer, Jalgaon, and it was informed to the father of the petitioners by a communication dated 26th July, 2018 that as per the documents provided to the office of the Sub Divisional Officer, Jalgaon, the present petitioners are residents of an area, which is under the jurisdiction of the Sub Divisional Officer, Bhusawal, as such, the application be submitted to the Sub Divisional Officer, Bhusawal. Then learned Counsel for the petitioners invited our attention to the application submitted to the Sub Divisional Officer, Bhusawal on 15th November, 2018. There is also a copy of the communication dated 30th November, 2018 placed on record which was issued by the office of the Sub Divisional Officer, Bhusawal, informing the father of the petitioners that there are various deficiencies in the application and he was informed to remove these deficiencies within fifteen days. The father of the petitioners, on 11th December, 2018 submitted an application to the Sub Divisional Officer, Bhusawal stating therein that an error was committed by him and it is further stated in the application that the applicant was willing to have a certificate in 'C' format in view of oral directions of the scrutiny committee, and though this was the subject matter which was required to be placed before the authority, by an inadvertent error, he

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submitted a simple application dated 15th November, 2018 for issuance of caste certificate. With reiteration of the request for grant of certificate in 'C' format, the application dated 11th December, 2018 is concluded. Learned Counsel for the petitioners then by inviting our attention to the order dated 28th December, 2018, which is impugned in the present petition submits that the authority has failed to consider the subsequent application dated 11th December, 2018 filed by the father of the petitioners and proceeded on the application dated 15th November, 2018.

4. Learned Counsel then submits that though it is observed in the order that the petitioner may avail the remedy of an appeal challenging the order of the authority, dated 28th December, 2018, the petitioners cannot avail this remedy, for the reason that it is not the case of rejection, which is wrongly treated by the authority but it is the case of the petitioners for issuance of a fresh certificate in a particular format, namely, 'C' format.

5. Mr Dande, learned Asstt. Govt. Pleader appearing on behalf of the respondents submitted that the authority committed no error as the application was submitted by the father of the petitioners on 15th November, 2018 and by this application the father of the petitioners simply prayed for issuance of the caste certificate.

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6. Considering the submissions of learned Counsel for the petitioners as well as the documents placed on record, it reveals that though initially, the father of the petitioners submitted the application dated 15th November, 2018 with a prayer for issuance of caste certificate, subsequently an application was submitted to respondent No.2 - Sub Divisional Officer, Bhusawal on 11th December, 2018, informing the authority that a mistake is committed by the father of the petitioners in earlier application dated 15th November, 2018. This application is received by the office of the Sub Divisional Officer, Bhusawal on the very date i.e. on 11th December, 2018. This fact is reflected from the endorsement on the application. It seems that probably the application dated 11th December, 2018 was not brought to the notice of the authority, namely, the Sub Divisional Officer. As such, the authority i.e. the Sub Divisional Officer was under an impression that he was required to consider the application dated 15th November, 2018 and under that impression, the authority by recording its reasons, passed the order dated 28th December, 2018.

7. At this stage, learned Counsel for the petitioners submits before us that the petitioner will file the fresh application before the authority i.e. the Sub Divisional Officer, Bhusawal so as to ponder on the aspect whether subsequent application was kept for consideration before it to avoid the delay. Learned Counsel for the petitioners submits that such a fresh application would be filed before the Sub Divisional Officer within a period of one week from today along with all necessary documents including a

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copy of the Government Resolution dated 22nd June, 2018. He further submits that the Sub Divisional Officer be directed to pass appropriate orders and on satisfaction of the said authority, it may issue certificate to the petitioners expeditiously. Learned Counsel for the petitioners was fair enough to make these submissions and if such an exercise is undertaken, no prejudice would cause to the respondents-authorities.

8. Considering the aforesaid aspects of the matter, the petition is disposed of. The order passed by the Sub Divisional Officer, Bhusawal, dated 28th December, 2018 is quashed and set aside. The petitioners to submit fresh application to respondent No.2 - Sub Divisional Officer, Bhusawal within one week from today. On receiving such application within stipulated period of one week, the Sub Divisional Officer to decide the application within a period of four weeks thereafter and if the Sub Divisional Officer is satisfied with the claim of the petitioners, he shall issue caste certificate expeditiously.

With the aforesaid directions, the petition is disposed of.

The authenticated copy of this order be supplied to learned Counsel appearing for respective parties.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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