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

WRIT PETITION NO.2751 OF 2019

Shivkrushna Ramanna Golamwar,
Age: 27 years, Occ: Student,
R/o. Madnapur, Mahur,
Tq. Mahur, Dist. Nanded ..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad,
Through its Deputy Director (R),
Aurangabad
3. The Sub Divisional Officer,
Kinvat, Tq. Kinvat,
Dist. Nanded ..RESPONDENTS

Mr Pratap V. Jadhavar, Advocate for petitioner;
Mrs M.A. Deshpande, A.G.P. for respondent/State;

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

DATE : 1st MARCH, 2019

ORAL ORDER :

Heard Mr. Jadhavar, learned Counsel

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appearing for the petitioner.

2. Considering the grievance raised in the petition, the petition is taken up for final disposal at admission stage. Notice is issued to the respondents, returnable forthwith. Learned A.G.P. waives service of notice for all respondents.

3. The petitioner is a student prosecuting his studies. The petitioner submitted an application to the Sub Divisional Officer, Kinvat for issuance of caste certificate along with the documents supporting the claim of the petitioner. Copies of the documents are also placed on record. These documents are in the form of school leaving certificate, caste certificate in favour of one of the nearest relative of the petitioner. The petitioner also placed on record the affidavit consisting of genealogical tree and other affidavit to submit that the petitioner is not possessing any document of revenue entries in respect of relation

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of the petitioner. It seems that directions were issued to the Talathi to submit report on local verification. The Talathi also submitted his report to the Tahsildar.,

4. The Sub Divisional Officer, Kinvat, assigned two reasons, namely, the documents submitted before him are not sufficient enough to substantiate the claim and there is no document placed on record by the petitioner of any nearest relative who belongs to 'Mannervalu', Scheduled Tribe. The other reason assigned is, the petitioner failed to submit any document showing revenue entry. The Sub Divisional Officer also refers to the decision of this Court in Writ Petition No. 2773 of 1989, reported in 2004, All M.R. 512 as other reason for rejection of the application.

5. Being aggrieved by the order, the petitioner preferred an appeal the Scrutiny Committee. The Scrutiny Committee assigned additional reason that the petitioner failed to

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produce any document of his residence prior to 1950 and then the Committee refers to Government Resolution dated 24th April, 1985. The Scrutiny Committee observed in its order that as the Sub Divisional Officer could not find any favour with the claim of the petitioner, the Committee dismissed the appeal by order dated 3rd January, 2019.

6. Learned Counsel for the petitioner submitted that now the issue is well settled. The Division Bench, time and again, directed the authorities to issue certificate on the *prima facie* satisfaction of the correctness of the document. The Division Bench, time and again, observed that in exercise of satisfaction of the correctness of the document, neither Sub Divisional Officer nor the Committee is expected to conduct thorough or in depth inquiry or probe to reject the application or appeal and the Committee and such exercise can be undertaken by the Committee when the certificate given before the Committee for

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validation and at that stage, the scope for in depth inquiry is wide open for the Committee.

7. Learned Counsel then submitted that the Sub Divisional Officer only on mechanical approach, rejected the application assigning self contradictory reasons in the order.

8. On perusal of the documents placed on record, we find considerable merit in the submission of learned Counsel for the petitioner. The petitioner submitted an affidavit before the authority inclusive of a genealogical tree. Perusal of the affidavit shows that the reference is made to one of the nearest relative i.e. cousin of the petitioner, namely, Narendra Narayan Golamwar. This Narendra Narayan Golamwar himself has submitted an affidavit to the authority on 1st November, 2017 stating that he belongs to 'Mannervarlu' and the petitioner is his cousin. He also refers to the name of petitioner Shivkrishna Ramanna Golamwar.

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9. On the backdrop of this fact, Sub Divisional Officer was certainly justified in observing that the petitioner failed to produce any document to show that his close relative belonging to 'Mannervarlu'. When the petitioner has placed on record genealogical tree by way of affidavit, refers to name of Narendra Narayan Golamwar as nearest relative and Narendra Golamwar himself filed affidavit stating in the affidavit that the petitioner is his nearest relative and he belongs to 'Mannervarlu', tribe, the observation of Sub Divisional Officer is certainly with non application of mind and on a mechanical and hyper technical approach.

10. The order of Sub Divisional Officer also suffers from the ground of non application of mind, as the Sub Divisional Officer assigns two self contradictory reasons in the order. On one hand, the Sub Divisional Officer states that the petitioner failed to submit any document of his

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nearest relative and on another hand, Sub Divisional Officer by referring the order of this Court states that placing a solitary document on record of nearest relative is not enough to establish the claim. On face of the record, these two reasons assigned by the Sub Divisional Officer are self contradictory and reflect non application of mind. The Committee then again with additional reason that the petitioner failed to produce any document prior to 1950 dismissed the appeal in agreement with the observations of the Sub Divisional Officer.

11. Insofar as non production of document of 1950, learned Counsel for the petitioner was justified in submitting that time and again this Court directed the authorities to pass appropriate orders on its *prima facie* satisfaction, correctness of the documents and in depth inquiry or probe is not expected at the stage of issuance of certificate. The Committee then observed that the Sub Divisional Officer could not fine any favour

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with the petitioner and the Sub Divisional Officer was not satisfied with the material submitted by the petitioner before him.

12. Now, we have observed that Sub Divisional Officer committed a serious error by assigning two self contradictory reasons and the Sub Divisional officer passed order on non application of mind. The order of Scrutiny Committee, relying on the order of the Sub Divisional Offer is certainly unsustainable. Thus, for these reasons. we are of the opinion that the learned Counsel for the petitioner made out a case for allowing the petition. The petition is allowed in terms of prayer clause (B) and (C) and disposed of accordingly.

(**S.M.GAVHANE**)
JUDGE

(**PRASANNA B. VARALE**)
JUDGE