

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

WRIT PETITION NO. 3245 OF 2018

**PRAVIN WAMAN KOLI SHANKOPAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. V. U. Jadhav, Advocate for the petitioner.
Mrs. M. A. Deshpande, Addl. G. P. for respondents/State.

**WITH WP/3246/2018 WITH WP/3247/2018
WITH WP/3248/2018 WITH WP/3249/2018**

**CORAM : S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ**

DATED : 02nd JULY, 2019.

PER COURT:-

1. The application filed by the petitioner for issuance of Tribe Certificate is rejected. Appeal filed against the order of the Sub Divisional Officer is also dismissed, hence, the present petition.
2. Mr. Jadhav, the learned Advocate for the petitioner submits that at the time of issuance of Tribe Certificate, the authority has to be *prima facie* satisfied. The petitioner had produced on record the school extract wherein his Tribe is mentioned as "Tokare Koli" (S.T.). The Collector verifying the record and after considering the provision of law concluded that the land in question is a tribal land covered under Section 36 & 36A of the Maharashtra Land Revenue Code. The learned Counsel also submits that validity certificate is issued in favour of one Sahebrao Kautikrao Saindane who is a relative of

the petitioner. The said evidence is sufficient to issue Tribe certificate.

3. The learned Additional Government Pleader submits that the entire record of the petitioner's father records the Tribe as "Suryawanshi Koli". The same is in Special Backward Class category from 1995 and earlier it was in Other Backward Class category. The entry taken by the revenue authorities as a Tribal land is also considered by the committee. The land has been re-granted that would show that it was not a Tribal land.

4. We have considered the submissions. The school record of the father of the petitioner records Tribe as "Suryawanshi Koli". The school record of the petitioner Pravin records Tribe as "Tokare Koli". The earlier record clearly records Tribe as "Suryawanshi Koli" of the father of the petitioner. The petitioner would get the caste from his father. The same is contra evidence. There would be no dispute in respect of entry taken in the school record of the petitioner and his father on the basis of documents produced on record. Certainly the SDO has not committed an error in rejecting the application. The petitioner is relying on the 7/12 extract and the mutation entry which suggest that the land is allotted to the predecessor of the petitioner as a Tribal land. Whether the entry in 7/12 extract is conclusive entry considered by the authority. The authority will have to consider the same.

5. Rule 4 (9) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification) Caste

Rules prescribed that if the authorities is not satisfied with the claim of the applicant on scrutiny of evidence then order further inquiry as he deems fit.

6. It would be appropriate for the authority to consider the document i.e. the revenue record, nature of the grant of the land, if the land is re-granted in view of provisions of Hyderabad Abolition of Inams and Cash Grants Act, the same cannot be Tribal land. The said aspect will have to considered by the authority alongwith its school record of the petitioner and his father.

7. In light of the above, we remit the matter back to the SDO by setting aside the order passed by the SDO and the committee. SDO shall reconsider the relevancy of the record of the predecessor in whose name the land is mutated, the nature of grant of the said land, so also contra evidence appearing in the record and arrive at a conclusion afresh.

8. Writ Petition accordingly is disposed of. No costs.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.