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

WRIT PETITION NO. 3779 OF 2019

Omkar S/o Venkat Anmod
Age Minor, Occu- Education,
R/o Jarikot, Tq. Dharmabad
Dist. Nanded
Through father and natural guardian
Venkat S/o Shankarrao Anmod
Age: 37 years, Occu.Agri
R/o As above

..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai
2. The Schedule Tribe Certificate
Verification Committee, Aurangabad
Through its Deputy Director (R)
Aurangabad
3. The Sub Divisional Officer, Dharmabad,
District: Nanded

..RESPONDENTS

Mr S. M. Vibhute, Advocate for petitioner;
Mrs G. L. Deshpande, A.G.P. for respondents

**CORAM : PRASANNA B. VARALE
AND
NITIN W. SAMBRE, JJ.**

DATE : 20th March, 2019

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ORAL ORDER:

Heard Mr Vibhute, learned Counsel appearing on behalf of the petitioner.

2. On the backdrop of the submissions of the Counsel and on perusal of the documents placed on record, we are of the opinion that the petition needs to be allowed at the admission stage.

3. The petitioner is represented through his father and natural guardian. The petitioner is a minor boy prosecuting his studies in 6th standard. The petitioner is admitted in Shri Chhatrapati Shahu Maharaj Military School, Udgir as a candidate belonging to Scheduled Tribes Category and accordingly submitted tribe certificate in the school. The copy of approval of admission is placed on record at Exhibit - A. This document bears the signature of the Commandant and Principal of the school. At Exhibit - B copy of caste certificate issued in favour of the father of petitioner through the Sub-Divisional Officer, dated 24th June, 2003 is placed on record.

4. An application was submitted to the Sub-Divisional Officer for issuance of caste certificate. Alongwith the application, the petitioner submitted supporting material in the form of the certificate issued by Sarpanch of village Jarikot, revenue records/ certificates issued by the other Revenue Officers namely, the Talathi, Circle Officer and the copy of the validity certificate issued in favour of the father and cousin brothers.

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The Sub-Divisional Officer refused to place reliance on the supporting document in the form of validity certificate issued in favour of the father only on the ground that the applicant failed to submit other supporting documents from the concerned office. Observing that the documentary evidence cannot be treated as a sufficient supporting evidence in favour of the petitioner, the Sub-Divisional Officer rejected the prayer of the petitioner.

5. Being aggrieved by the order of the Sub-Divisional Officer, the petitioner preferred an appeal before the Caste Scrutiny Committee and this pendency prompted the petitioner to approach this Court by filing Writ Petition No. 6320 of 2018. Considering this very fact of pendency of the appeal, the Division Bench of this Court was pleased to dispose of the petition with directions to the Committee to take a decision within a stipulated period and it seems that only to show the compliance of the order of this Court, the Scrutiny Committee mechanically dismissed the appeal affirming the order of the Sub-Divisional Officer. Interestingly enough, the Scrutiny Committee while refusing to place reliance on the certificate issued in favour of the father of the petitioner assigns a reason that the certificate does not bear signature of the competent authority and then on further vague ground as it could be, observed that the documents in the form of validity certificates issued in favour of the relatives of the petitioner cannot be accepted as a sufficient material as these relatives are not the nearest relatives of the petitioner.

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6. Learned Counsel Mr Vibhute was justified in making a submission before us that the committee, for the reasons best known to it, in some matters happily accepts the document in the form of caste certificate issued in favour of the blood relation of the applicant as a supporting material and in some matters, very documents are turned down by the Committee. In support of his submissions, Mr Vibhute invited our attention to an order passed by Scrutiny Committee on 29th January, 2019, in the matter of Shri Hrishikesh Kurukwad.

7. On perusal of this order we find merit in the submission of Mr Vibhute. In the order of the committee dated 29th January, 2019 the committee refers to the documents submitted to it and in the list of documents reflected at paragraph 4 of the order at serial no.3, the document i.e. caste certificate issued in favour of the applicant - Hrishikesh is referred to and interestingly enough the committee in paragraph 5 of the order refers to the order of this Court in Writ Petition No.2989 of 2010 and states that the Division Bench has observed that the caste certificate issued in favour of father of the applicant is sufficient proof in favour of the applicant. As this certificate was before the committee, the committee by order dated 29th January, 2019 allowed the appeal against the order of the Sub-Divisional Officer.

7. On the backdrop of the rejection by of the committee in the present matter, reason assigned is, the caste certificate of the father of the petitioner does not bear the signature of the competent authority. A copy of

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that very caste certificate placed on record at Exhibit - B clearly shows that certificate is issued on 24th June, 2003 and it bears the signature of the Sub-Divisional Officer. Thus, we find merit in the submission of the learned Counsel Mr Vibhute that the committee is adopting the approach of pick and choose while considering the appeals.

8. Considering all above referred facts, the only conclusion which we can draw is, the order of the committee challenged in the petition is clearly un-sustainable. Accordingly, the petition is allowed in terms of prayer clause (B).

9. Though the petition is disposed of, we direct the learned A.G.P. to place on record the explanation of the committee on our observations that the committee in identical set of circumstances takes one view for disposal of appeal and on similar set of circumstances takes another view for dismissal of the appeal. This explanation/affidavit be filed by the committee within two weeks from today.

Registry to supply authenticated copy of the order to the learned A.G.P..

Learned A.G.P. to communicate this order to the concerned authority forthwith

(NITIN W. SAMBRE, J.)

(PRASANNA B. VARALE, J.)

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