

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

26 WRIT PETITION NO.6322 OF 2018

MADHUKAR GOMA @ GAMBHIRSINGH VALVI ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

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Mr. S. S. Choudhary, Advocate for the Petitioner.

Mr. P. S. Patil, AGP for Respondents-State.

...

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATED : 13th FEBRUARY, 2019.

PER COURT:-

1. The petitioner applied for issuance of tribe certificate of Bhil, Scheduled Tribe Caste with Sub Divisional Officer, Nandurbar. The same is rejected. The appeal filed against it is dismissed. Aggrieved thereby, the present writ petition.

2. Mr. Choudhary, learned counsel for the petitioner submits that since beginning the petitioner's ancestors were resident of Bilbhavali which was in Maharashtra in the year 1950 at the time of Presidential Notification and Tahasil region was in the Maharashtra. However, only on the ground that the Bilbhavali village forms part

of District Surat, State of Gujarat has negatived the claim.

3. Mr. Patil, learned A.G.P. submits that the Appellate Authority has considered the merits of the matter.

4. It appears that the village Bilbhavali was in Maharashtra Nandurbar Tq. at the time of issuance of Presidential Notification dated 06.09.1950 and subsequently that village has formed part of the State of Gujarat.

5. The relevant date would be the date of issuance of notification. In fact the authority ought to have considered the place of residence as on the date of the issuance of Presidential Notification and the area whether situated in Nandurbar Tq. Maharashtra at the relevant time in view of the Rule 4 of Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, other Backward Classes and Special Backward Category (Regulation of Issuance & Verification of) Caste Certificates Act, 2003 (Act No.23 of 2001) and Rules.

6. In light of the above, the impugned orders are quashed and set aside. The Sub Divisional Officer shall reconsider the application filed by the petitioner and consider the position as on the date of Presidential Notification dated 06.09.1950

and whether that village on the said date was forming the part of Nandurbar district which now is part of State of Gujarat.

7. Writ Petition is disposed of. No costs.

(A. M. DHAVALÉ)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/February-19