

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8267 OF 2019

Vishal s/o. Ramchandra Kamble,
Age 29 years, Occ. Student,
R/o. Kulaswamininagar, Ambajogai,
Tq. Ambajogai, District Beed.

... Petitioner

VERSUS

- 1] The State of Maharashtra
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai -32.
- 2] The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Region, Aurangabad through
its Member Secretary.
- 3] The Maharashtra University of
Health Sciences, Nasik
through its Registrar. [DELETED]

... Respondents.

...

Mr. S.M. Vibhute, Advocate for the petitioner
Mr. S.S. Dande, AGP for respondent Nos. 1 and 2.

AND CIVIL APPLICATION NO. 7991 OF 2020
IN W.P. NO. 8267 OF 2019

**CORAM : SUNIL P. DESHMUKH &
R.G. AVACHAT,JJ.**

DATE : 7TH DECEMBER, 2020.

ORAL JUDGMENT [PER SUNIL P. DESHMUKH,J]

1] Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally by consent.

2] Petitioner's claim to be belonging to "*Koli Mahadeo*" scheduled tribe has been decided in the negative by respondent No.2 – Scheduled Tribe Certificate Scrutiny Committee, Aurangabad finding that petitioner could not support his claim with material which could be termed as credible.

3] Mr. Vibhute, learned counsel for petitioner submits that though validity of close cousin had been placed on record, same has not been properly appreciated, finding that two villages viz. petitioner's (Kevad, Post Chincholi, taluka Kaij) and that of validity holders' family (Varangaon, Taluka Kaij), appear to be different. He submits that this would hardly be a consideration to negate claim of petitioner. According to him, the fact remains that both the families are from the same taluka and district, viz. Kaij and Beed, respectively. The distance between two villages is hardly two kilometer. He submits that petitioner's claim has not been considered since proper genealogy in support of the relationship could not be made available and only incomplete genealogy had been given.

4] He further submits that there have been disputes among family members before the revenue courts, which strengthen the claim of the petitioner of being related to family of the validity holder. In support of the same, he purports to place reliance on the decision by the sub divisional officer, Ambajogai, dated 16-05-2005. According to learned counsel, when there is a validity holder from blood relations, same should receive its due.

5] His next leg of submission is, vigilance report relied on, claimed to be against the petitioner, had not been served on him, as is incumbent and required under rule 12(8) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (Tribes Certificate Rules). It was on the very day, on which hearing had been scheduled, same had been served. In the circumstances, the impugned order is not in adherence to the prescription under aforesaid rules and, thus, is in contravention of the rules of natural justice.

6] Mr. Dande, the learned AGP appearing for respondent – Committee submits that it had been imperative that true and upto-date genealogy ought to have been submitted and that the order relied upon of revenue court, would not be relevant so far as determination of petitioner's claim is concerned.

Learned AGP submits that it is not the case that

petitioner had not been served with vigilance report. The decision that had been rendered by the Committee is after taking into consideration all relevant aspects and, thus, same is not liable to be faulted with.

7] In the aforesaid circumstances, it emerges that rule 12(8) of the Tribes Certificate Rules, does not appear to have been adhered to and the purpose underlying the same, particularly, looking at the tender age of petitioner, does not appear to have been meaningfully served. While the petitioner claims to be now in possession of material relevant to strengthen his claim to be belonging to "*Koli Mahadeo*" scheduled tribe, he seeks opportunity to place it before the Committee.

8] Having regard to aforesaid, as Rule 12(8) of the Tribe Certificate Rules, has not been observed and as petitioner claims to have material with him to buttress his claim, we are of the opinion that interest of justice can be met with by giving the petitioner an opportunity to support his claim afresh.

9] Mr. Vibhute, learned counsel for petitioner submits that petitioner has been selected in the first round of BDS Course. In view of said statement, it would be expedient that the Committee shall decide claim of the petitioner as early as possible.

10] Mr. Dande, learned AGP appearing for respondent Committee submits that the committee would decide the claim of petitioner within a period of three weeks from the date of appearance of petitioner before the committee.

11] In the above circumstances, the impugned order dated September 24th, 2018, passed by respondent No.2 – The Scheduled Tribe Certificate Scrutiny Committee, Aurangabad is set aside and his tribe claim before the Committee is restored and revived.

The respondent No.2 - Committee shall afford reasonable opportunity including to adduce evidence to the petitioner and decide claim of the petitioner, afresh on its own merits, as expeditiously as possible; without being influenced by the present order and preferably within a period of three weeks from the date of receipt of writ of this order.

12] Writ petition stands disposed of. Rule is made absolute in above terms.

13] In view of aforesaid, civil application No. 7991 of 2020 for intervention also stands disposed of.

[R.G. AVACHAT, J]

[SUNIL P. DESHMUKH, J]

grt/-