

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

WRIT PETITION NO.3806 OF 2018

Devanand Balajirao Chukewad,
Age : 23 years, Occ. Education,
R/o Mendka, Tq. Mudkhed,
Dist. Nanded

...PETITIONER

VERSUS

1. Sub Divisional Officer,
Bhokar, Tq. Bhokar,
Dist. Nanded
2. Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad,
Through its Member Secretary ...RESPONDENTS

Mr S.S. Phatale, Advocate for the petitioner
Mr P.N. Kutti, A.G.P. for respondents

**CORAM : UJJAL BHUYAN
AND
M.G. SEWLIKAR, JJ.**

DATE : 17-03-2021

ORAL JUDGMENT (Per Ujjal Bhuyan, J.)

Heard Mr Sagar Phatale, learned Counsel for the petitioner and Mr
Kutti, learned A.G.P. for the respondents.

2. Rule. Rule made returnable forthwith. Heard learned Counsel
appearing for the parties finally by consent.

3. By filing this petition under Article 226 of the Constitution of India, petitioner seeks quashing of order dated 03-08-2017, passed by the Sub-Divisional Officer, Bhokar, District Nanded, declining to issue Scheduled Tribe certificate to the petitioner as belonging to "Mannerwarlu" community, which is recognized as a Scheduled Tribe in the State of Maharashtra. Further challenge made by the petitioner is to the order dated 23-03-2018, passed by the Scheduled Tribe Certificates Scrutiny Committee, Aurangabad i.e. respondent no.2 rejecting the appeal filed by the petitioner against the decision of the Sub-Divisional Officer i.e. respondent no.1. Petitioner also seeks a direction to the respondents to issue Scheduled Tribe certificate to the petitioner as belonging to "Mannerwarlu" Scheduled Tribe community.

4. Case of the petitioner is that he belongs to "Mannerwarlu" Scheduled Tribe community. In this connection, the concerned Talathi as well as Sarpanch and Gramsevak had issued certificates certifying that petitioner belongs to "Mannerwarlu" Scheduled Tribe community. When the petitioner approached respondent no.1 being the competent authority under the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Classes Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 for issuance of Scheduled Tribe

certificate, respondent no.1 directed the concerned Circle Officer to make an inquiry . It is stated that the said Circle Officer had conducted enquiry and thereafter submitted report recommending that the petitioner, indeed, belongs to “Mannerwarlu” Scheduled Tribe community and should, therefore, be issued the related certificate. Similar recommendation was also made by the Executive Magistrate of Bhokar.

5. Notwithstanding the same, respondent no.1 by order dated 03-08-2017 rejected the application of the petitioner.

6. Aggrieved by the above rejection, petitioner preferred appeal before the Scrutiny Committee - respondent no.2 which is the appellate authority constituted under Section 5 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Classes Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. Respondent no.2, by order dated 23-03-2018, rejected the appeal of the petitioner and affirmed the decision of respondent no.1.

7. Aggrieved, present writ petition has been filed seeking the reliefs as indicated above.

8. Learned Counsel for the petitioner submits that father of the petitioner, namely, Balaji Datta Chukewad has been issued Scheduled Tribe certificate by the Executive Magistrate, Bhokar on 29-11-1990, who was then the competent authority to issue such certificate. Identical tribe certificate was issued to Chukewad Vinod Maroti, cousin brother of the petitioner from paternal side, which was subsequently validated by the Scheduled Tribe Certificates Scrutiny Committee. These documents were placed before respondent no.1. In addition, a genealogy statement was filed before the respondents indicating the relationship of the petitioner with father and cousin brother from the paternal side. These documents were not considered by the respondents by taking a mechanical approach holding that these are post independence documents.

9. Learned A.G.P. submits that in such matters, ordinarily neither records are produced nor reply affidavits are filed. Matters are decided on the basis of pleadings and documents. He fairly submits that considering the case made out by the petitioner, Court may pass an appropriate order.

10. We have heard learned Counsel for the parties.

11. The fact that petitioner's father has been conferred "Mannerwarlu" Scheduled Tribe certificate is not disputed. Further, the fact that petitioner's cousin brother from the paternal side has been conferred

similar certificate has also not been disputed.

12. In Writ Petition No.12479 of 2017, Shubham Harikishan Sonkusre and two other cases, decided on 01-11-2017, a Division Bench of this Court held that there cannot be a thumb rule that only if documents prior to independence are produced, then only caste/tribe certificate is to be granted. At the time of issuance of tribe/caste certificate, the authorities are only required to take a *prima facie* view inasmuch as, after issuance of such certificate it has to pass the test of scrutiny of the Caste/Tribe Certificates Scrutiny Committee. Alike in the present case, in those cases also fathers and paternal uncles of the petitioners were issued tribe certificates, which were denied to the petitioners. This Court while setting aside the decisions of the Sub-Divisional Officer and the Scheduled Tribe Certificates Scrutiny Committee directed the Sub-Divisional Officer to issue Scheduled Tribe certificate to the petitioners as belonging to the particular Scheduled Tribe community which would have to undergo verification by the Scrutiny Committee in due course.

13. We are in respectful agreement with the views expressed by this Court in Shubham Harikishan Sonkusre (*supra*) and are of the view that similar relief may be granted to the present petitioner.

14. Accordingly, we set aside and quash the two impugned orders dated 03-08-2017 and 23-03-2018 and direct respondent no.1 to issue

Scheduled Tribe certificate to the petitioner as belonging to “Mannerwarlu” Scheduled Tribe community, which would however be subject to scrutiny by the Scheduled Tribe Certificates Scrutiny Committee in due course. The above certificate shall be issued within a period of four weeks from the date of receipt of a copy of this order.

15. Writ Petition is accordingly allowed to the extent indicated above. However, there shall be no order as to costs.

16. Rule is made absolute accordingly.

(M.G. SEWLIKAR)
JUDGE

(UJJAL BHUYAN)
JUDGE

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