

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5969 OF 2021

Raghvendra Shankar Matthe.

...Petitioner.

Versus

The Sub-Divisional Officer,
Solapur and Another.

..Respondents.

Mr. Sanjay Thokade for the Petitioner.

Mr. V. M. Mali, AGP for the Respondent-State.

CORAM : PRASANNA B. VARALE &
N. R. BORKAR, JJ.

Date : **September 29, 2021.**

P. C. :

1. Heard learned counsel for the Petitioner. As a very limited grievance is raised in the petition, petition is taken up for hearing disposal.
2. The Petitioner, a resident of Solapur, had approached the SDO, Solapur with a request to issue a fresh tribe certificate in view of the judgments delivered by this Court at the Principal Seat at Bombay as well as at the benches of this Court at Aurangabad and Nagpur.
3. The Petitioner was possessing a tribe certificate dated 3rd July 2001 issued by the SDO, Solapur, referring that the Petitioner belongs to Mahadev-Koli (ST-29) caste/tribe. It is submitted that such certificates were commonly issued by the SDOs and then the issue fell for consideration before this Court. The principal seat as well as bench at

Aurangabad while deciding Writ Petition No.12390 of 2015 and Writ Petition No.8738 of 2015, respectively, permitted the Petitioner to approach the competent authority, i.e., the SDO for issuance of a fresh certificate referring the social status of the Petitioner as "Koli-Mahadev (ST-29)" instead of "Mahadev-Koli (ST-29)".

. The Petitioner in his application, by referring to these judgments, requested the SDO, Solapur to issue a tribe certificate to the Petitioner that the Petitioner belongs to "Koli-Mahadev (ST-29)" tribe. On receipt of application, the Resident SDO, Solapur responded to by communication dated 8th December 2020 and the same is impugned in the present petition.

4. By the communication dated 8th December 2020, the resident SDO informed the Petitioner that certificate issued to him earlier, i.e., the tribe certificate dated 3rd July 2001, is not cancelled by the Commissioner of Tribe Claims Verification Committee, Pune Division, Pune, as such as and when the earlier certificate is cancelled by the Commissioner of Pune Committee, the Petitioner would be entitled to submit an application along with necessary documents by adopting online procedure and on receipt of such application, the competent authority would take appropriate action.

5. Learned counsel for the Petitioner submitted that the communication impugned in the petition is nothing but a mechanical

approach of the authority. It is also submitted by learned counsel for the Petitioner that the Respondent-authority even failed to consider the judgment and order of this Court which were specifically referred to in the application submitted by the Petitioner. It is then submitted by that the Petitioner was not at all required to approach the Commissioner, Pune Committee for verification of his claim or rejection of his claim as a pre-requisite to file an application to the competent authority for issuance of a fresh tribe certificate. In support of his submissions, learned counsel for the Petitioner invited our attention to the order of the Division Bench of this Court, dated 26th August 2015 passed in Writ Petition No.8738 of 2015 (page no. 19 to the petition). In the said order, a reference is made to the order of the Division Bench of this Court passed in Writ Petition No. 4536 of 2014 dated 14th August 2014 and it reads thus :

"1 The petitioner is seeking directions to the Sub Divisional Officer, Ahmednagar for issuance of the Tribe certificate, certifying that, he belongs to Koli Mahadev, Scheduled Tribe (ST). This Court, while dealing with Writ Petition No. 4536 of 2014, decided on 14.8.2014, issued certain directions. The directions contained n paragraph Nos. '(c)' and '(d)' are reproduced as below:-

"(c) In the event earlier caste certificates had been issued by the Executive Magistrates, it would be open for the petitioners to tender an application to the Sub Divisional Officer of the concerned Division and such officer shall entertain the application and shall issue caste certificate/s in the prescribed proforma on verifying attested/authenticated Photostat copy of the earlier caste certificate.

(d) The concerned Sub Divisional Officer/Competent

Authority, on receipt of the applications by respective petitioners, together with attested/authenticated Photostat copy of the caste/tribe certificate issued earlier, shall proceed to issue caste/tribe certificate in prescribed proforma certifying that respective petitioners belong to Koli Mahadev, Scheduled Tribe. The Sub Divisional Officers/Competent Authority shall issue certificate within a period of four weeks from the date of receipt of the applications."

5. Needless to state that Writ Petition No. 8738 of 2015 was disposed of by quashing and setting aside the order passed by SDO rejecting the request of Petitioner to issue a fresh caste certificate.

6. Considering the above referred facts, more particularly, the application submitted by the Petitioner, the order of Division Bench of this Court in Writ Petition No. 8738 of 2015 as well as the order of the Division Bench of this Court dated 12th June 2018 in Writ Petition No. 12390 of 2015, we find considerable merit in the submission of learned counsel for the Petitioner.

. Learned counsel for the Petitioner was justified in making the submission that Respondent-SDO has mechanically rejected the application of Petitioner vide his communication dated 8th December 2020. We fail to understand how the Respondent-SDO rejected the application on the ground that prior to submitting an application, it is the pre-requisite that the Petitioner ought to have approached the Commissioner, Pune Committee and further ought to have obtained

rejection of his earlier tribe certificate. The ground for rejection in the communication dated 8th December 2020 is clearly unsustainable and untenable. Resultantly, we dispose of this petition by quashing and setting aside the order / communication impugned in the petition. We further direct the Respondent-SDO, Solapur to process the application submitted by Petitioner by way of an on-line mode, at the earliest, and if there is no impediment, the Respondent-SDO shall issue a tribe certificate to the Petitioner in the prescribed format on verification of the copy of earlier tribe certificate. The Respondent SDO to complete the entire exercise as expeditiously as possible and in any case within the period of six weeks from the date of receipt of a copy of this order.

7. The petition stands disposed of.

8. All concerned to act upon a copy of this order issued by the Registry of this Court as an authenticated copy of the order.

[N R. Borkar, J.]

[Prasanna B. Varale, J.]