

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

8 WRIT PETITION NO.12363 OF 2021

VIKRANT KISHOR MUDIRAJ
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Adv. for Petitioner : Mr. Chinchole G. K. h/f Mr. Vibhute S. M.
AGP for Respondents-State : Mr. P. S. Patil.
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**CORAM : RAVINDRA V. GHUGE, AND
S. G. MEHARE, JJ.**

DATE : 28.02.2022

PER COURT :-

1. We have heard the submissions of the learned advocate for the petitioner and the learned AGP on behalf of all the respondents. With their assistance, we have gone through the petition paper book.

2. The petitioner prays for a direction that he should be granted the Tribe Certificate of "Koli Mahadev" Scheduled Tribe. On perusal of the first order passed on 29.06.2016 by the Sub Divisional Officer, Hingoli and having perused Rule 3 as well as rule 4(6) of the Maharashtra Scheduled Tribes, (Regulation of Issuance and Verification of Certificate) Rules,

2003, we find that the first authority has not passed an order without application of mind.

3. The petitioner contends that none of his ancestors ever took education. None of them went to school. None of them have school records. However, he concedes that an affidavit was not filed in order to support his case under Sub Clause (4) of Rule 3 by which he could have explained the reasons as to why he is short of some documents.

4. The first impugned order indicates that as there were certain deficiencies in his application, he was called upon to remove the deficiencies. However, that was not done and the petitioner continued to litigate right up to this Court. This is his second round to this Court. The petitioner continues to harp upon Sub Rule (6) of Rule 4 stating that a scheduled tribe certificate should be issued within 15 days.

5. He relies upon a judgment dated 28.02.2011 delivered by this Court in Writ Petition No.860 of 2011 filed by Govind Sayanna Kamtamwar Vs. The State of Maharashtra and others. This Court has concluded that a detailed inquiry is not necessary, a view with which we agree. However, in the said

order, the petitioner was equipped with a certificate issued by the School indicating his caste as “Mannerwarlu” and he also had other certificates. In the present case, the petitioner has a certificate issued by the Talathi, which according to the counsel for the Committee is irrelevant. He has a certificate issued by a Corporator Police Patil. The said document is also irrelevant. His tribe entry in the school record is Mahadev Koli which tribe does not exist. He referred to a caste certificate of his cousin brother from the paternal side, but did not tender further details nor the original certificate for verification. Same is the case with regard to his biological uncle from the paternal side. This would also apply to his biological cousin brothers on the paternal sides.

6. In view of the above, we do not find that the impugned orders could be termed as being perverse or erroneous. However, as we see that the Sub Divisional Officer, Hingoli had actually granted an opportunity to the petitioner to undo the deficiencies and since we are of the view that the petitioner cannot be rendered remediless, this petition is disposed off with the following observations :

- (a) The petitioner shall comply with the requirements as are prescribed under Rule 4 of the 2003 Rules and make an application afresh, on or before 21.03.2022.
- (b) If called upon by the competent authority, he would produce the affidavit of his cousin brothers, cousin uncles on the paternal side and / or may produce their original caste certificates for verification to support his claim.
- (c) He may also file an affidavit as is required under Sub Clause 4 of Rule 3.
- (d) If he approaches the competent authority by making such an application, on or before 21.03.2022 and supports his claim with such documents as are adverted to in the above directions, respondent No.3 would consider the material placed before him and pass an appropriate order on or before 21.06.2022.
- (e) Needless to state, if respondent No.3 is satisfied, he shall also issue a tribe certificate along with his order, on or before 21.06.2022.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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vmk/-