

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

WRIT PETITION NO. 5366 OF 2022

- 1) Mrunay Pankaj Baviskar
Age 09 years, Occ. Education.
- 2) Ishan Pankaj Baviskar,
Age 07 years, Occ. Education.
- 3) Pankaj Vaman Baviskar,
Age 35 years, Occ. Agriculture.
- 4) Sanjay Vaman Baviskar,
Age 32 years, Occ. Agriculture

Petitioner Nos. 1 & 2 minor
through their natural guardian i.e.
father Pankaj Vaman Baviskar,
R/o. Gorgawale Tq. Chopda,
Dist. Jalgaon.

... **Petitioners**

VERSUS

- 1) Sub Divisional Officer,
Amalner, Dist. Jalgaon.
- 2) Scheduled Tribe Certificate
Scrutiny Committee, Nandurbar,
Through its Member Secretary.

... **Respondents**

...

Advocate for the Petitioners : Mr. Phatale Sagar S.
A.G.P. for the Respondent Nos. 1 & 2 : Mr. A.S. Shinde

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 12.09.2023

PER COURT : (PER : SHAILESH P. BRAHME, J.)

Heard learned advocate for the respective sides finally.

2. The petitioners are challenging common judgment and order dated 09.12.2021 passed by the respondent No. 2-Scrutiny Committee, rejecting their appeals and confirming the distinct orders of rejection of applications seeking issuance of tribe certificates passed by the respondent no. 1-Sub Divisional Officer.

3. The petitioners claim to be member of scheduled tribe 'Tokre Koli'. They have submitted their applications seeking tribe certificates to the respondent No. 1. The documentary evidence was also placed on record to substantiate their claim. Their applications were rejected by distinct orders passed on 07.05.2021 holding that no evidence was produced in support of their claim. Being aggrieved, appeals were preferred before the respondent No. 2 under Section 5(1) of the Maharashtra Act XXIII of 2001.

4. The petitioners are relying upon the genealogy which is placed on record at page 24. They are further relying upon the 7x12 extract which is in the name of Waman Sitaram Koli, tribe certificate issued to Waman Sitaram Baviskar (Koli) (grand father of the petitioners), affidavit and school record of the relatives.

5. The scrutiny committee rejected their appeals holding that the appeals were filed belatedly. There were contrary entries in the name of Manga, Tukaram and also found fault with the revenue record. It is further recorded that no cogent evidence was produced on record and there was no sufficient evidence of prior to 1950.

6. The petitioners have already placed on record the tribe certificate issued to Waman Sitaram Baviskar (Koli), revenue record and the school entries. This is adequate material to make out a case for issuance of tribe certificate. The Scrutiny Committee has conducted a threadbare enquiry which is not contemplated for issuing tribe certificate. The scope of enquiry for issuing tribe certificate and for scrutiny of tribe certificate is different. We find that the Scrutiny Committee has committed error of jurisdiction. There

is *prima facie* evidence on record to make out a case for issuing tribe certificate. We reply on the judgment in case of **Anand Dhananjay Nalawade Vs. State of Maharashtra; 2014 (4) Mh.L.J. 77.**

7. For the reasons assigned above, we find that both the impugned orders are unsustainable.

8. We, therefore, allow the writ petition.

9. The impugned common judgment and order dated 09.12.2021 passed by the respondent No. 2-Scrutiny Committee and the distinct orders dated 07.05.2021 passed by the respondent No. 1-Sub Divisional Officer are quashed and set aside.

10. The respondent No. 1-Sub Divisional Officer shall issue tribe certificates of 'Tokre Koli' scheduled tribe to the petitioners forthwith.

11. The Writ Petition is disposed of accordingly.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-