

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

WRIT PETITION NO. 3523 OF 2023

Akshay s/o Rajanna Chukalwar,
Age 22 years, Occ. Student,
R/o. Dundra Tq. Kinwat, Dist.Nanded ... **Petitioner**

VERSUS

- 1) Deputy Director (Research) and
Member Secretary, Scheduled Tribe
Certificate Verification Committee,
Kinwat, Headquarter Aurangabad
Near CIDCO Bus Stand, CIDCO,
Aurangabad, Dist. Aurangabad.
- 2) The Sub Divisional Officer,
Kinwant, Tq. Kinwat, Dist. Nanded ... **Respondents.**

...

Advocate for the Petitioner : Mr. Chandrakant R. Thorat
A.G.P. for Respondents : Mr. P.S. Patil

**CORAM : MANGESH S. PATIL AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 12.06.2023

ORDER : (PER : MANGESH S. PATIL, J.)

Heard learned advocate for the petitioner as also the learned A.G.P,
finally.

2. The petitioner claims to be belonging to 'Munnervarlu' scheduled tribe and has been seeking a certificate to that effect from the competent authority under the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 and the rules framed thereunder (hereinafter 'the Act'). He is aggrieved by the order passed by

the competent authority Kinwat, dated 29.12.2021 refusing to grant him the certificate and even the judgment and order passed by the Scheduled Castes, Scheduled Tribes Scrutiny Committee, Kinwat whereby it has dismissed his appeal.

3. The learned advocate Mr. Thorat for the petitioner submits that he requires the tribe certificate for education purpose for securing admission to the professional course from a reserved seat. An innocuous request was made to the respondent No. 2-Competent Authority which rejected his application on untenable grounds and the error has perpetuated up to the appellate authority-respondent No. 1, which has dismissed his appeal. Even at such preliminary stage, the petitioner was expected to lead proof when a *prima facie* opinion was supposed to be recorded as has been consistently held by this Court in catena of orders like **Rahul Ashok Satlawar Vs. Deputy Director (Research) and Member Secretary and another**, Writ Petition No. 14069 of 2019 dated 30.01.2020, **Akash Govindrao Chinmalwar Vs. The State of Maharashtra and others**, Writ Petition No. 4151/2010 dated 13.07.2011 and the recent decision based on these two earlier decisions, in the matter of **Rupali d/o Subhash Haidalwar Vs. Deputy Director (Research) and Member Secretary and another** in Writ Petition 782/2023 dated 21.03.2023 to which one of us (S. G. Chapalgaonkar, J.) was a party.

4. Mr. Thorat would submit that the entry in the father's name in his school record is of the year 1977. It is not mandatory that unless you have some pre-independent entries the claims should be treated as bogus. The decision taken by the respondents is clearly based on surmises and conjectures. There is nothing to disbelieve the petitioner's claim. In depth scrutiny would happen at the stage of verification of the tribe certificate. It would extend opportunity even to the respondents to collect material to reach an objective conclusion. At the preliminary stage, only a *prima facie* inference is to be drawn and the material on record was sufficient for the respondents to draw such opinion in favour of the petitioner.

5. The learned A.G.P. strongly opposes the petition. He submits that the experience has shown that several undeserving persons have made attempts to secure tribe certificates of 'Mannervarlu' tribe by resorting to forgery and fraud. The school records have been manipulated and it is highly essential for the respondents-authorities to be sceptical about any such claim being made. He would submit that except the school record of petitioner's father of the year 1977, there is absolutely no material or revenue record to demonstrate that the petitioner is a resident of that village and *prima facie* belongs to 'Mannervarlu' scheduled tribe.

6. We have carefully considered the rival submissions and perused the record.

7. Admittedly, the petitioner's father's school leaving certificate of the year 1977 was produced before the respondents mentioning the name of the tribe as 'Mannervarlu'. Even the 7x12 revenue record of the petitioner's family was produced before the respondents and even the learned A.G.P. after going through the original record and proceeding confirms the fact. Meaning thereby that this revenue record *prima facie* demonstrates that the petitioner's family has been resident of village Dundra Tq. Kinwat. Pertinently, the impugned order does not expressly refer to and seek to discuss this revenue record.

8. True it is that there could be some frauds taking place for the obvious reason for deriving the benefit by obtaining tribe certificate. One can even easily appreciate the doubt being entertained by the respondents. However, being circumspect is one thing and being cynical is another. There is no harm if the respondents are circumspect while scrutinizing the petitioner's claim. However, the reasoning adopted clearly shows that they are cynical rather than circumspect. They have no contrary record to even draw a *prima facie* inference about the petitioner's claim being fraudulent one. Rather they have conveniently overlooked the father's school record which

may not be too old but is of the year 1977. They have also overlooked the revenue record *prima facie* showing that the petitioner is resident of that particular village.

9. As is mentioned herein above, at the stage of issuance of caste certificate only *prima facie* satisfaction regarding the claim has been consistently held to be sufficient.

10. If this is the state of affairs, the impugned orders which are clearly devoid of any contrary circumstance and is clearly based only on an unreasonable doubt are clearly perverse, arbitrary and unsustainable.

11. Needless to state that a person claiming to a scheduled tribe or scheduled caste will have to further undergo a rigour of getting his caste certificate duly scrutinized by the scrutiny committee in a full fledged enquiry. Even the respondents would get an opportunity to undertake such investigation at an appropriate stage. Depriving the petitioner merely on the basis of conjectures and surmises from deriving a benefit by obtaining a tribe certificate would cause a serious prejudice.

12. The Writ Petition is allowed.

13. The impugned judgment and orders are quashed and set aside. The respondent No. 2 shall now issue a tribe certificate in the requisite format and with a correct spelling of the tribe name to the petitioner, as expeditiously as possible and in any case within four weeks from today.

(S.G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

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