

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

WRIT PETITION NO. 4728 OF 2023

Sofiyan S/o Rasul Tamboli

Versus

1. The State of Maharashtra
Through its Secretary of
Social Justice and Special Assistance Department,
Mantralaya, Mumbai.
2. The Divisional Commissioner,
Aurangabad.
3. District Caste Certificate Scrutiny Committee,
District Beed.
Through its Member Secretary.

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Advocate for Petitioner : Mr. Thorat Nanabhau R.
AGP for Respondent Nos. 1 to 3/State : Mr. A.A.Jagatkar

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

DATE : 21 SEPTEMBER 2023

PER COURT :

Heard.

1. The petitioner is challenging the order of the respondent no.2/Scrutiny Committee, invalidating his claim apparently only on the ground of jurisdiction. It observes that he is a permanent resident of Ahmednagar District, but could get the caste certificate from the

competent authority from Beed District, but could not substantiate his claim. It is now being pointed out that the petitioner's brother and sister have been granted certificates of validity by the same respondent/ District Caste Certificate Scrutiny Committee, Beed, albeit, the impugned order does not demonstrate about the petitioner having produced these vital pieces of evidence before the Committee.

2. The relevant provision can be found in Rule 5 (2) of the Rules of 2003 framed in the Maharashtra Act No. XXIII of 2001, which reads as under :

"Rule 5 (2) :

Migration from one district to another district or from the jurisdiction of one Competent Authority to another within the State.

(a) The competent Authority is satisfied may issue Scheduled Tribe Certificate in Form C to an applicant who has migrated from one district to another district or from the jurisdiction of one Competent Authority to another, within the State, on production of the Scheduled Tribe Certificate issued to his father or grandfather, by the concerned Competent Authority of that district.

(b) The Competent Authority shall issue Scheduled Tribe Certificate in Form C to an applicant of other district from which he had migrated to the present place, on the production of the Scheduled Tribe Certificate issued to his father or grandfather by the then Competent Authority of the district of his father or grandfather's origin at the time of passing of the first Presidential Order dated the 6th September 1950 or thereafter, for Scheduled Tribes.

Explanation : For the purpose of this sub-rule "Migrant within the State" means _

(i) the persons who have migrated from one district to another district or from the jurisdiction of one Competent Authority to another within the State on or after the first Presidential Order dated the 6th September 1950 for Scheduled Tribes and whose parents had been the ordinary residents of Maharashtra State.

(ii) in the case of persons born after the first Presidential Order dated 6th September 1950, the place of ordinary residence for the purpose of acquiring Scheduled Tribes status, shall be the place of permanent abode of their father, grandfather at the time of notification of the Presidential Order for Scheduled Tribes."

3. As can be seen, it is for the competent authority to ascertain the aforementioned facts before issuing a caste certificate or tribe certificate.

4. When admittedly the petitioner was issued with a certificate of validity by competent authority from Beed District, the respondent no.2/Scrutiny Committee from Beed could not have resorted to the reasoning which it has.

5. Be that as it may, since the impugned order does not refer to and point out that the petitioner's brother and sister were granted certificates of validity by the same respondent/Scrutiny Committee at Beed, we allow the writ petition partly, quash and set aside the impugned order and remit the matter back to the Scrutiny Committee for a decision afresh.

6. The petitioner shall be entitled to produce the documents referred to herein-above to satisfy the Committee regarding competence of the competent authority to issue tribe certificate to him.

7. The petitioner shall appear before the Scrutiny Committee on 03.10.2023 and the Committee shall thereafter complete the exercise and decide the petitioner's proposal as expeditiously as possible and in any case within eight weeks thereafter.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb.