

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

947 WRIT PETITION NO. 8600 OF 2018

SAIPRAKASH RAMKISHAN UPPOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. Yenegure Apparao
AGP for Respondents : Mr. A.S. Shinde

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

DATE : 29 SEPTEMBER 2023

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

Heard both the sides finally at the admission stage.

2. The petitioner is challenging the judgment and order dated 26th April 2018, passed by respondent no. 2 – Scrutiny Committee, confirming the order dated 26 September 2016, passed by respondent no. 3 – Sub Divisional Officer, rejecting application seeking issuance of tribe certificate.

3. The petitioner claims to be belonging to ‘Mannervarlu’ scheduled tribe. He submitted application seeking tribe certificate along with necessary documents to the respondent no. 3. His application was rejected on the ground that the documents produced by him were of recent origin, the old record of revenue as well as census was not produced and the validity certificates which were produced to support the claim could not be relied upon. Being aggrieved by the said order, appeal was preferred under Section 5 (2) of the Act, before the Committee.

4. The respondent no. 2 – Scrutiny Committee, rejected the appeal confirming the finding recorded by Sub-Divisional Officer. It is reiterated that the old record prior to 1950 was not produced. No material is produced showing the place of residence. Additionally, it is also recorded that the surname of the petitioner is not compatible with the surnames of the members belonging to 'Mannervarlu' scheduled tribe.

5. Both the authorities below have recorded unwarranted findings. The scope of the enquiry for issuing tribe certificate is limited as compared to the scrutiny of caste / tribe validity certificates. The tribe certificate is not conclusive and its validity is subjected to further scrutiny. *Prima facie* satisfaction is necessary considering the material placed on record. We find that both the authorities have committed error of jurisdiction in considering the material placed on record. We are fortified in our view by law laid down in *Anand Dhananjay Nalawade Versus State of Maharashtra*, **2014 (4) Mh.L.J. 77**.

6. Learned counsel for the petitioner has placed on record a communication dated 28th November 2001 which shows that it is not mandatory to produce the evidence to show place of residence of the period prior to 1950 in each and every case. Both the authorities below have not understood the purport of Rule 3 (3) of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes, (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and Verification of)

Caste Certificate Rules of 2001, requiring the claimant to produce the documents. The evidence of place of residence prior to 1950 cannot be insisted upon. The findings in that regard recorded by the respondent no. 2 are unsustainable.

7. We have noticed that there is sufficient material on record produced by the petitioner. The validity certificates of the persons figuring in the genealogy which is at page no. 52 namely Subhash and Mangesh are also on record. In that view of the matter, the petitioner has made out a case for receiving tribe certificate. We find that both the orders are unsustainable. Therefore, we pass the following order:

ORDER

- i. The order dated 26 September 2016, passed by the respondent no. 3 – Sub Divisional Officer, and the order dated 26 November 2018, passed by respondent no. 2 – Scrutiny Committee, are quashed and set aside.
- ii. The respondent no. 3 – Sub Divisional Officer shall issue tribe certificate within a period of two weeks from today.
- iii. Writ Petition is disposed of in above terms.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

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