

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

WRIT PETITION NO. 7838 OF 2022

1. Ma. Manoj S/o Ramesh Kotlawar
2. Ku. Rajnandini D/o Ramesh Kotlawar

Through their father As a Guardian Ramesh Laxman Kotlawar

Versus

1. State of Maharashtra,
Through its Secretary,
Tribal Development Department, Mumbai.
2. The Sub Divisional Officer,
SDO Office at Biloli, Taq- Biloli, Dist. Nanded.
3. Scheduled Tribe Caste Certificate Scrutiny Committee,
Kinwat, Division Aurangabad,
Through its Deputy Director and Member Secretary,
Dist. Aurangabad.

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Advocate for Petitioners : Mr. Dhakane Rajendra B. and Mr. Jayewar Sainath
Gangadhar

AGP for Respondents/State : Mr. S.R. Yadav-Lonikar

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

DATE : 1 SEPTEMBER 2023

PER COURT :

Heard.

1. The petitioners are challenging the order passed by the competent authority refusing to issue tribe certificate to the petitioners and are also

aggrieved by the order passed by the respondent/Scrutiny Committee in an appeal against that order.

2. We have heard both the sides. This Court has been consistently observing that the jurisdiction vested in the competent authority at the stage of issuance of caste certificate or tribe certificate is limited. However, we have been consistently finding that the competent authority as well as the Scrutiny Committee which is approached in appeal against the order of the competent authority have not been taking a pragmatic view. They have been treating as if they are supposed to undertake a threadbare scrutiny and go into all the details to record a finding as to how the applicants have failed to substantiate their claim. This happens in spite of the fact that the family members are already possessing the certificate. They discard such certificates of the relatives, as has been done in the present matter, by observing that any certificate issued under Section 4 is valid only subject to the validation proceeding. Conversely if a certificate is issued and it is to be validated by undertaking a further scrutiny why the competent authority as well as the Committee should insist for a concrete proof as if everything is to be considered and decided at that stage without there being any validation proceeding.

3. Admittedly the petitioners' real cousin has been issued with a certificate of Mannervarlu scheduled tribe in Form C issued way back in the year 2017. If such is the case state of affairs, in our considered view

the petitioners are entitled to possess a similar certificate, of-course whose validity would be subject to the further scrutiny by the Scrutiny Committee at an appropriate stage.

4. Both the orders are clearly perverse and arbitrary.

5. The writ petition is allowed. The impugned orders are quashed and set aside. The respondent/competent authority shall issue tribe certificates to both the petitioners in the prescribed format within two weeks.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]