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

33 WRIT PETITION NO.3747 OF 2023

**TUMBA DHADU KOLI (SAVALE) AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

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Mr S. S. Phatale, Advocate h/f Mr S. C. Yeramwar, Advocate for
Petitioners;

Mr S. G. Karlekar, A.G.P. for Respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 3rd April, 2023

PER COURT:

1. These are six Petitioners before us, who pray for 'Tokre Koli' Scheduled Tribe certificates in 'C' format. Each one of them has such scheduled Tribe certificate issued as long ago as in January 2011. It is only that they desire their claims to be validated under the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short 'the Act of 2000'), for which they require 'C' format certificates.

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2. They are aggrieved by the order passed by Respondent No.3/ Sub Divisional Officer and the subsequent order passed by Respondent No.2/ Competent Committee, concluding that they do not belong to 'Tokre Koli' Scheduled Tribe category.

3. The learned A.G.P. has strenuously defended the impugned orders. He submits that, both the orders contain reasons. Reasons are based on documents. The Petitioners' cases are found to be unsustainable. He, therefore, prays that the petition be dismissed.

4. It is well settled that, though a Caste or a Tribe certificate is not to be granted mechanically or on assumptions and presumptions, the application for a certificate has to be scrutinized, since the issuing authorities have to be satisfied that the person, who seeks certificate, is belonging to that category. Moreover, at the time of validation of such a claim, the Competent Committee can consider the claims of such individuals in the light of the judgment delivered by the Hon'ble Supreme Court in the matter of **Kumari Madhuri Patil and anr. Vs. Addl. Commissioner, Tribal Development and others, (1994) 6**

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Supreme Court Cases 241, as a consequence of which, ‘the Act of 2000’ was introduced, and in view of the recent judgment dated 24/03/2023, delivered by the Hon’ble Supreme Court in **Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti Vs. State of Maharashtra and others**, in Civil Appeal No.2502/2022 and other connected matters.

5. We have perused the certificates, which the Petitioners have, indicating that they belong to the ‘Tokre Koli’ Scheduled Tribe category. Since they desire validity certificates, they need to place on record ‘C’ format certificates. The Authority which issued them the Tribe Certificate, has to receive the original certificates, to be returned by the Petitioners and issue ‘C’ format certificates.

6. We are of the view that, when the Assistant Collector, competent to issue the certificates at issue, had issued the certificates in 2011 to these Petitioners, the succeeding Additional Collector, in the capacity of being the Sub Divisional Officer, cannot sit over the earlier certificates and conclude that none of these Petitioners belong to a particular Scheduled Tribe. The Sub Divisional Officer is only expected to check, as to whether they

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are bogus or forged documents or have been issued by an Authority, which did not have the jurisdiction to issue such certificates.

7. In view of the above, this petition is allowed. The impugned orders dated 17/12/2021 and 08/06/2022, are quashed and set aside with the following directions :-

(a) All these Petitioners would tender online applications as per the procedure and also return their original 'Tokre Koli' Scheduled Tribe certificates.

(b) After such certificates are received, the Sub Divisional Officer would peruse the certificates to identify, as to whether any of them are forged documents or are bogus certificates. If all are normal, the Sub Divisional Officer would issue certificates in the prescribed format 'C', to these Petitioners within 15 days.

(c) With the issuance of such 'C' format certificates, no equities would be created in favour of the Petitioners and this order would not be cited or relied upon at the time of the decision on the claim for validity. If such

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claims for validation are tendered, the same shall be considered on their own merits, by applying the law laid down in Kumari Madhuri Patil (supra), the provisions of 'the Act of 2000' and the view taken by the Hon'ble Supreme Court in the judgment dated 24/03/2023 in Maharashtra Adiwasi Thakur Jamat Swarakshan Samiti (supra).

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

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