

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 WRIT PETITION NO.11340 OF 2023

Sudarshan s/o Babasaheb Nirde,
Age 15 years, Occ. Education,
R/o. Kacharwadi, Tq. Dharur,
Dist. Beed,
Through father and natural guardian
Babasaheb s/o Ramnarayan Nirde

... **Petitioner**

VERSUS

- 1) The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
- 2) The Sub Divisional Officer
Majalgaon, Dist. Beed.

... **Respondents**

...
Advocate for Petitioners : Mr. G.K. Chinchole h/f Mr. Sunil Mahadevappa
Vibhute

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

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

DATE : **12.09.2023**

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

Heard both the sides finally.

2. The petitioner is challenging the order dated 30.08.2022 passed by the respondent No. 2-Sub Divisional Officer rejecting his application for issuance of tribe certificate. He is relying upon the tribe certificate issued to his father, brother and uncle. Out of them his father was issued with validity certificate by the scrutiny committee.

3. Normally, we would not have entertained the writ petition because there is an alternate efficacious remedy of appeal under Section 5(1) of the Maharashtra Act XXIII of 2001 to be filed before the Scrutiny Committee. However, the order under question is passed on 30.08.2022. The period of

limitation is already expired. Admittedly, close relatives of the petitioner like father, brother and uncle are having tribe certificates and specially his father is being issued with tribe validity certificate by the competent authority. Under these exceptional circumstances, we are entertaining this petition.

4. The respondent No. 2 while rejecting the application has assigned the reason that the petitioner could not produce any evidence of the period of prior to 06.09.1950 and there was no convincing evidence to support his tribe claim. The scrutiny under taken by the respondent No. 2-Sub Divisional officer is unwarranted. The competent authority has to be *prima facie* satisfied with the material placed on record. Threadbare enquiry is not contemplated. This position of law is well settled in the matter of **Anand Dhananjay Nalawade Vs. State of Maharashtra; 2014 (4) Mh.L.J. 77.**

5. In that view of the matter, we are of the considered view that the respondent No. 2-committee has committed grave error of jurisdiction in rejecting the application of the petitioner.

6. In the wake of the validity certificate and tribe certificates issued to the close relatives of the petitioner, the petitioner is entitled to tribe certificate. We, therefore, pass following order.

7. The Writ Petition is allowed.

8. The impugned order dated 30.08.2022 passed by the respondent No. 2 is quashed and set aside.

9. The respondent No. 2 shall issue tribe certificate of 'Koli Mahadev' scheduled tribe to the petitioner forthwith.

10. The Writ Petition is disposed of accordingly.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-