

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1024 WRIT PETITION NO. 11671 OF 2021

KALYANI NITIN KOLI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioners : Mr. Kokad Amol Ashok
AGP for Respondent Nos. 1 to 4 : Mr. A.S. Shinde
Advocate for Respondent No. 5 : Mr. Dheple Shantaram Ravji

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

DATE : 07 JULY 2023

PC :

Heard both the sides and perused the papers.

2. The petitioners are seeking tribe certificate in the prescribed form as belonging to Koli Mahadev. The respondent – Competent Authority rejected their applications and even appeals have been dismissed by the respondent – Scrutiny Committee.

3. This Court has time and again observed that the stage of issuance of caste and tribe certificate is merely first leg. Any certificate issue would be subject to its validation at the hands of the Scrutiny Committee at an appropriate stage. Only, *prima facie*, material, sufficient to the satisfaction of authorities, needs to be produced or should be available.

4. It appears that the Competent Authority as well as the Appellate Authority have misdirected themselves and have dealt with

the matter as if they were called upon to conclude the issue whether the petitioners indeed belong to Koli Mahadev scheduled tribe. Their approach is not expected in law.

5. Be that as it may, as is mentioned in the rejoinder, the petitioners' real paternal uncle by name Dipak Mhadu Koli has been issued with the tribe certificate in the prescribed form 'C' by the self same respondent – Competent Authority. Even individual is the same. Even the petitioner's father Nitin has been granted tribe certificate by the same individual Competent Authority on 04 May 2019 (pg 47).

6. We have every reason to believe that the individual holding the post of respondent – Competent Authority, is not acting fairly. There is every room to believe that he has some ulterior motive. When the petitioners' father and paternal uncle were issued with the tribe certificate at his hands, his conduct in refusing to issue a similar tribe certificate to the petitioners is a serious dereliction of duty rather bordering misconduct.

7. Be that as it may, we quash and set aside both the orders and direct the respondent – Competent Authority to issue tribe certificate to the petitioners as early as possible and in any case within a period of two weeks from today.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

spc/