

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

917 WRIT PETITION NO. 11584 OF 2023

1. VIVEK VYANKAT TOTAWAR U/G OF THEIR NATURAL GUARDIAN
FATHER VYANKAT POCHANNA TOTAWAR

2. SUJAL D/O. VYANKAT TOTAWAR
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Boinwad Omgashad B.

AGP for Respondents : Mr. A.S. Shinde

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

DATE : 15 SEPTEMBER 2023

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

Heard both the sides finally at the admission stage.

2. The petitioners are siblings of Vyankat Pochanna Totawar. They belong to scheduled tribe 'Mannervarlu'. They had applied for tribe certificate. Their application was rejected by respondent no. 2 on 02 March 2022. It was recorded that no evidence for the period prior to 1950 was produced by the petitioners. It was further held that no caste validity certificate was produced by them.

3. Being aggrieved by above order, they preferred appeal before the respondent no. 3 – Committee. Appeal was dismissed on 14.11.2022, confirming the finding recorded by the Sub-Divisional Officer. The judgment and order of the appellate forum is under challenge.

4. Learned counsel for the petitioners submits that the relevant documentary evidence was produced on record. Both the authorities below, committed error of jurisdiction in rejecting their application. The petitioners are armed with the tribe certificate of father and cousin brother. They are also relying upon the entries in the school record of the relatives. We find that there is an adequate material to make out the case for issuing the tribe certificate.

5. Both the authorities below committed grave error of jurisdiction in the wake of law laid down by this Court in the matter of *Anand Dhananjay Nalawade Versus State of Maharashtra*, **2014 (4) Mh.L.J. 77**.

6. The enquiry contemplated at the stage of issuing tribe certificate is limited and, *prima facie*, satisfaction is required. Both the authorities below have undertaken an undepth enquiry which is not warranted. Under these facts and circumstances, we find that the orders passed by both the authorities below are unsustainable. We, therefore, dispose of this Writ Petition by passing following order :

ORDER

- i. The writ petition is allowed.
- ii. The impugned judgment and order dated 14.11.2022, passed by the respondent no. 2 – Sub Divisional Officer and order dated 02.03.2022, passed by the respondent no. 3 – Scrutiny Committee, are quashed and set aside.

iii. The respondent no. 2 – Sub Divisional Officer shall issue tribe certificates to the petitioners within a period of one week from today.

iv. Accordingly, writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

spc/