

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11341 OF 2023

- 1) Siddeshwar s/o Ramesh Damale,
Age 20 years, Occ. Education,
R/o. Antarwali Tembhi, Tq.
Ghansavangi, Dist. Jalna.
 - 2) Aarti D/o Ramesh Damale,
Age 17 years, Occ. Education,
R/o. As above.
 - 3) Pooja d/o Ramesh Damale
Age 14 years, Occ. Education,
R/o. As above.
(Petitioner Nos. 2 & 3 Minor
through their guardian father
Ramesh Khandu Damale)
 - 4) Ramesh s/o Khandu Damale,
Age 43 years, Occ. Agril.
R/o. Antarwali Tembhi, Tq.
Ghansavangi, Dist. Jalna.
- ... **Petitioners.**

VERSUS

- 1) The State of Maharashtra,
Through Secretary,
Tribal Development Department,
Mantralaya Mumbai -32.
 - 2) The Sub Divisional Officer,
Ambad, Tq. Ambad, Dist.
Jalna.
 - 3) The Scheduled Tribes Certificate
Scrutiny Committee, Aurangabad
Division, Aurangabad, through
its Secretary.
- ... **Respondents**

...

Advocate for the Petitioners : Mr. Choudhari Deepak D.
A.G.P. for the Respondents/State : Mr. A.A. Jagatkar

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

DATE : 12.09.2023

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

Heard both the sides.

2. The petitioners are challenging the common judgment and order dated 24.08.2023 passed by the Scrutiny Committee confirming an order dated 30.11.2019 passed by the respondent no. 2-Sub Divisional Officer rejecting the application for issuance of tribe certificate.

3. The petitioners claim to be the member of scheduled tribe 'Koli Mahadev'. They had submitted application for issuance of tribe certificates. The documentary evidence was also placed on record. By distinct orders passed on 30.11.2019, the respondent No. 2 rejected their applications holding that there was no cogent evidence produced in support of their claim. Being aggrieved, they preferred four distinct appeals bearing Appeal No. 1/2020 to 4/2020 before the respondent No. 3-Scrutiny Committee. By a common order dated 24.08.2023 the appeals are rejected.

4. The respondent No. 3 recorded a finding that sufficient evidence was not produced by the petitioners. No evidence of place of residence was produced by them. They are non suited for the reasons that no documentary evidence of prior to 1950 or any evidence pertaining to revenue entry was produced by them.

5. The learned advocate for the petitioners have invited our attention to the fact that validity certificate of Dilip Radhakisan Damale, cousin uncle of the petitioner nos. 1 to 3, tribe certificate of Bandu Khandu Damale along with school record of the relatives of the petitioners were produced on record to substantiate their claim. We find that adequate material is placed

on record in support of their claim. The enquiry contemplated at the stage of issuing of tribe certificate is a limited enquiry. Both the authorities below have committed error of jurisdiction in conducting a threadbare enquiry. Tribe certificate is not a conclusive proof. The enquiry at this stage is different than an enquiry contemplated during a scrutiny of tribe certificate. We find that there is *prima facie* evidence on record to issue tribe certificates to the petitioners. We rely upon the judgment in case of **Anand Dhananjay Nalawade Vs. State of Maharashtra; 2014 (4) Mh.L.J. 77**

6. For the reasons assigned above, both the impugned orders are unsustainable. We propose to pass following order.

7. The Writ petition is allowed.

8. The impugned common judgment and order dated 24.08.2023 passed by the Scrutiny Committee and the orders dated 30.11.2019 passed by the Sub Divisional Officer are quashed and set aside.

9. The respondent No. 2-Sub Divisional Officer shall issue tribe certificates of 'Koli Mahadev' scheduled tribe to the petitioners forthwith.

10. The Writ Petition is disposed of accordingly.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-