

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

WRIT PETITION NO.13130 OF 2023

Rinkal d/o Chhaburao Mande ... **PETITIONER**

VERSUS

1. The State of Maharashtra
through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai.
2. The Scheduled Tribe Certificate
Verification Committee Aurangabad,
through its Dy. Director (R)
At. Aurangabad Dist. Aurangabad
3. The Sub Divisional Officer Majalgaon
Dist. Beed

... **RESPONDENTS**

...

Advocate for petitioner : Mr. G.K. Chinchole h/f Mr. S.M. Vibhute

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

...

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

DATE : 18.10.2023

ORDER : (SHAILESH P. BRAHME, J.)

Heard both the sides finally.

2. The petitioner is challenging the judgment and order dated 05.10.2023 passed by the respondent No.2 - Committee rejecting her appeal and confirming the order dated 14.06.2022 passed by the respondent No.3 – Sub Divisional Officer.

3. The petitioner claims to be the member of scheduled tribe 'Koli Mahadev'. An Application was submitted to the respondent No.3

seeking tribe certificate. In support of the application the tribe certificate issued to father and brothers of the petitioner were submitted. Besides that the reliance was also placed upon validity certificate issued to the uncle of the petitioner. The application is rejected by order dated 14.06.2022 thereby citing the reasons that the documents produced on record have no probative value. There is no indication of “Koli Mahadev” scheduled tribe. The evidence prior to 06.09.1995 has not been produced by the petitioner.

4. Being aggrieved by the order passed by the respondent No.3, the petitioner preferred appeal under Section 5 Sub-Section 2 of Maharashtra Act No.XXIII of 2001 before respondent No.3. Again the reliance is placed upon voluminous documentary evidence including the tribe certificates of the close relatives as well as the validity certificate issued to uncle of the petitioner. The appeal was dismissed confirming the order passed by the Sub-Divisional Officer for the reason that the petitioner was unable to produce any evidence of prior to 1950. No proof of residence was produced. The certificates produced on record were not having probative value.

5. We find that the reason assigned by both the authorities are totally unsustainable. When there are tribe certificates issued to father and brothers of the petitioner as well as validity certificate issued to the uncle there is no reason for both the authorities to reject the application. Both the authorities below have overlooked the circular dated 21.11.2021

issued by the Government for dispensing with the proof for the residence of prior to 1950 while seeking tribe certificate. In the wake of the circular also the impugned judgment and orders are unsustainable.

6. In the present matter relationship of the petitioner with validity holder is not disputed. The validity certificate and tribe certificates stated above are on record. Despite this unimpeachable material, the application of the petitioner is rejected. It is sheer non-application of mind by the members of the Committee. It is an abuse of powers to deprive a claimant from the caste/tribe certificate despite being armed with documents having highest probative value. We strongly condemn the practice of applying the parameters of the scrutiny of the tribe certificate. In a catena of decisions the scope of the inquiry for issuing tribe certificate has been laid. The hardships is faced by the litigant by adopting errant approach. Henceforth, if we come across this type of mischief, we will be constrained to pass harsh orders.

7. We find that there is *prima facie* evidence on record produced by the petitioner. She is entitled to receive the tribe certificate. We therefore pass following order:

ORDER

- i] The judgment and order dated 14.06.2022 passed by the Sub-Divisional Officer as well as the judgment and order dated 05.10.2023 passed by the respondent No.2 – Scrutiny

Committee are quashed and set aside.

- ii] The respondent No.3 – Sub-Divisional Officer shall issue tribe certificate to the petitioner forthwith.
- iii] The writ petition is disposed of in above terms.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)