

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

WRIT PETITION NO.14338 OF 2023

1. Bhaskar Sanjay Yamawar
Age: Minor, Occu. Student
Under Guardian of father
Sanjay Shankar Yamawar
Age: 37 years, Occu: Agril,
R/o: Savarmal, Tq. Mukhed,
Dist. Nanded
2. Nagesh Suryakant Yamawar
Age: Minor, Occu. Student
Under Guardian of father
Suryakant Shankar Yamawar
Age: 35 years, Occu: Agril,
R/o: Savarmal, Tq. Mukhed,
Dist. Nanded
3. Krishna Balaji Yamawar
Age: Minor, Occu. Student
Under Guardian of father
Balaji Naganna Yamawar
Age: 47 years, Occu: Agril,
R/o: Savarmal, Tq. Mukhed,
Dist. Nanded

... Petitioners

Versus

1. The State of Maharashtra
Through its Secretary
Tribal Development Department
Mantralaya Mumbai - 32
2. The Scheduled Tribe Certificate
Scrutiny Committee
Kinvat (Head Quarter Aurangabad)
Dist. Aurangabad
Through its Deputy Director (R)

3. The Sub-Divisional Officer,
Deglor, Tq. Deglor,
Dist. Nanded.

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Mr. P. V. Jadhavar, Advocate for the Petitioners
Mr. S. G. Sangle, AGP for the Respondents/State

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**CORAM : MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : 09.11.2023

PER COURT :

- . Heard both the sides finally.
2. The petitioners are challenging the order passed by respondent no.3 who is a competent authority under the Maharashtra Act No.XXIII of 2001 refusing to issue 'Mannervarlu' Scheduled Tribe certificates to the petitioners in a proceeding under Section 4 of the Act and they are also challenging the order passed by respondent no.2 – Scrutiny Committee dismissing their statutory appeal.
3. As can be noticed from the order of the Scrutiny Committee, the petitioners were relying upon the similar certificates issued to their second degree cousin – Santosh Hanumant Yamawar. In our considered view, this fact in itself was sufficient to allow the petitioners' applications and even the appeal seeking tribe certificates. The Committee has refused to extend its benefit on the ground that by virtue of Section 4(2), any certificate issued under

that act is valid subject to its validation by the Scrutiny Committee. One wonders as to how this could be the line of reasoning. If the Committee is aware that any tribe or caste certificate would be valid only subject to the scrutiny to be undertaken by the Scrutiny Committee, how can a tribe certificate of a relative could be refused to be relied upon even for issuance of a similar certificate by a blood relation. Needless to state that even the certificates to be issued to the petitioners would be similarly valid only subject to the scrutiny.

4. Again, contrary to the Government circular dated 28/11/2001, insistence by the competent authority as well as the scrutiny committee of the proof regarding place of residence of the family prior to 1950 is an objectionable. The committee seems to be oblivious of the circular as is the competent authority.
5. Threadbare scrutiny of the applications seeking caste or tribe certificate is not expected which can happen at the stage of scrutiny under Section 7.
6. Be that as it may, both the orders are not sustainable in law. The writ petition is allowed. The impugned orders are quashed and set aside. The respondent no.3 – competent authority shall issue tribe certificates to the petitioners of 'Mannervarlu' Scheduled Tribe (27) in form – C, as expeditiously as possible and in any case within two weeks.

[NEERAJ P. DHOTE, J.]

[MANGESH S. PATIL, J.]