

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

13 WRIT PETITION NO.14735 OF 2023

1. Abhishek Shivaji Kanade
Age : 18 years, Occu : Student,
2. Priyanka d/o. Shivaji Kanade
Age : 13 years, Occu : Student,
Through her natural guardian father,
Shivaji s/o. Nabaji Kanade
Age : 43 years, Occu : Agri,
Both residing at R/o. Antarwali Tebhi,
Tq. Ghansawangi, Dist. Jalna .. Petitioners

Versus

1. The State of Maharashtra
Department of Tribal Development,
Mantralaya, Mumbai
Through Its Secretary
2. The Scheduled Tribe Certificate Scrutiny Committee,
Aurangabad, Division Aurangabad,
Through its Member Secretary.
3. The Sub Divisional Officer,
Ambad, Tq. Ambad,
Dist. Jalna .. Respondents

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Advocate for Petitioners : Mr. Vivek U. Jadhav
AGP for Respondent / State : Mr. S. V. Hange

...

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

DATED : DECEMBER 04, 2023

PER COURT :

. Heard both the sides.

2. The petitioners are aggrieved by the order dated 07.09.2015 passed by the Respondent no.3 – Sub Divisional Officer refusing to issue ‘Koli Mahadev’ Scheduled Tribe certificates to them under the provisions of the Maharashtra Act No. XXIII of 2001 (for short, ‘Act’). They are also aggrieved by the dismissal of the appeal dated 30.11.2017 by the respondent no.2 - Scrutiny Committee.

3. This Court has been repeatedly observing that the material which is sufficient to *prima facie* establish that a person belongs to a particular tribe or caste should be sufficient for grant of certificate.

4. Needless to state that any such certificate issued under Section 4 is subject to a further scrutiny and subject to the validation by the scrutiny committee in a proceeding under Section 7 of the Act.

5. As can be seen from the application submitted before the respondent no.3 - competent authority, the caste certificate of petitioners’ father was annexed as a proof. The impugned order of the scrutiny committee also demonstrates that even the caste certificate of not only the father, but cousin paternal uncle was also annexed. Without disputing the relationship, the competent authority as well as the scrutiny committee has embarked upon a journey to verify the petitioners’ claim when that should have been a part of an enquiry for

validation of caste / tribe certificate. No specific and cogent reason has been assigned by either of them to refuse to recognize the caste certificates possessed by the petitioners' father and the cousin paternal uncle. The observation of the scrutiny committee that even those certificates are subject to the validity proceeding, as a ground for not to rely upon, is indeed perverse and arbitrary.

6. We allow the writ petition. Both the impugned orders are quashed and set aside. The Respondent No. 3 - competent authority shall immediately issue tribe certificates to both the petitioners within a week from today.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE