



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4335/2023

Vishal Namdeo Gopewad,
aged 31 Yrs., Occ. Education,
R/o Dhanki, Tq. Umarkhed,
Dist. Yavatmal.

... Petitioner

- Versus -

1. The Scheduled Tribe Caste
Certificate Scrutiny Committee,
through its Member / Secretary,
Palaswadi Camp, Darwha Road,
Yavatmal, Dist. Yavatmal.

2. The Sub-Divisional Officer,
Umarkhed, Tq. Umarkhed,
Dist. Yavatmal.

... Respondents

WITH

WRIT PETITION NO.4336/2023

Pooja Namdeo Gopewad,
aged 26 Yrs., Occ. Education,
R/o Dhanki, Tq. Umarkhed,
Dist. Yavatmal.

... Petitioner

- Versus -

1. The Scheduled Tribe Caste
Certificate Scrutiny Committee,
through its Member / Secretary,
Palaswadi Camp, Darwha Road,
Yavatmal, Dist. Yavatmal.

2. The Sub-Divisional Officer,
Umarkhed, Tq. Umarkhed,
Dist. Yavatmal.

... Respondents

Mr. S.D. Khati, Counsel for the Petitioners.

Mr. Amit A. Madiwale, Assistant Government Pleader for
Respondent Nos.1 and 2.

CORAM: A.S. CHANDURKAR & MRS. VRUSHALI V. JOSHI, JJ.
DATE : 1.9.2023

ORAL JUDGMENT (Per A.S. Chandurkar, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. The petitioners are aggrieved by the order passed by the Sub-Divisional Officer refusing to issue a tribe certificate to the petitioners of belonging to Mahadeo Koli Scheduled Tribe. The reason assigned is that the petitioners failed to produce documents prior to 1950 to substantiate their claim of belonging

to Mahadeo Koli Scheduled Tribe. The order passed by the Sub-Divisional officer has been maintained by the Scrutiny Committee vide order dated 4.11.2022 by assigning additional reasons.

3. The principal ground assigned by the Sub-Divisional Officer is the absence of documents being submitted by the petitioners of the period prior to 1950. In this regard Rule (3) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (for short “Rules of 2003”) prescribes the procedure for obtaining the scheduled tribe certificate. Though Rule 3 requires an applicant to furnish attested copies of the documents mentioned in clause (a) to (f) thereof, Sub-Rule (4) of Rule 3 permits such applicant to file an affidavit and indicate reasons if the applicant is unable to produce one or more of such documents referred to in Rule 3(a) to (f). It is, thus, clear that if the applicant furnishes reasons for his inability to produce such documents, same have to be considered

by the competent authority and after conducting enquiry, if found necessary, the claim has to be decided.

4. In the present case, application seeking issuance of tribe certificate has been rejected only by stating that documents prior to 1950 has not been filed. The course prescribed by Rule 3(4) of the Rules of 2003 has not been followed. The Scrutiny Committee in appeal has considered the proceedings as if it was deciding the claim for seeking validity certificate. The Scrutiny Committee also did not consider the effect of Rule 3(4) of the Rules of 2003. On this count, the impugned order passed is unsustainable.

5. Accordingly, the order dated 8.8.2022 passed by the Sub-Divisional Officer refusing to issue tribe certificate as well the date order dated 4.11.2022 passed by the Scrutiny Committee are set aside. The Sub-Divisional Officer to reconsider the petitioners' application for issuing tribe certificate in accordance

with Rules of 2003. The petitioners are free to take recourse to the provisions of Rule 3(4), if they are not in possession, to furnish documents prior to 1950. The proceedings be decided afresh in accordance with law after giving opportunity to the petitioners.

6. Rule is made absolute in aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)