

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

WRIT PETITION NO.369 OF 2023

Petitioner : Sarthak s/o Digambar Gite,
 Age – 17 years (Minor), Occ. Student,
 U/g of father-Digambar s/o Dattatray Gite,
 Age-45 years, Occ. Agriculture,
 R/o Santkripa Hospital, Kelkarwadi, Murtijapur,
 Tq. Daryapur, Dist. Amravati.

– Versus –

Respondents : 1. The State of Maharashtra,
 Department of Tribal Development,
 Mantralaya, Mumbai – 32.
 Through its Secretary.

2. The Scheduled Tribe Certificate Scrutiny
 Committee, Amravati Division, Amravati,
 Tq. & Dist. Amravati.
 Through its Member Secretary.

(Copies of Respondents No.1 & 2 to be served on
 the Government Pleader, High Court of Bombay,
 Bench at Aurangabad).

3. The Sub Divisional Officer,
 Daryapur Division, Daryapur,
 Dist. Amravati.

 Mr. A.P. Chaware, Advocate for the Petitioner.

Mr. A.M. Deshpande, In-Charge Government Pleader for the Respondents.

CORAM: **A.S. CHANDURKAR AND M.W. CHANDWANI, JJ.**

DATE : **8th MARCH, 2023.**

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

Rule. Rule made returnable forthwith. Heard finally with the consent of learned Counsel for the parties.

02] The petitioner, who claims to be belonged to “Thakur Scheduled Tribe”, is aggrieved by the order dated 17/02/2022 passed by the Sub Divisional Officer, Daryapur refusing to issue a tribe certificate to the petitioner as well as the order dated 30/11/2022 passed by the Scrutiny Committee maintaining the order passed by the Sub Divisional Officer in appeal.

03] We have heard the learned Counsel for the petitioner as well as the learned In-charge Government Pleader for the respondents. Undisputedly, the only request made by the petitioner was for issuance of a tribe certificate. The Sub Divisional Officer has referred to various documents filed by the petitioner in that regard. However, for the reason that the members of the ‘Thakur’ community were not found to be the residents of the area within his jurisdiction, he refused to issue tribe certificate. Thereafter, the Scrutiny Committee has reiterated that position and dismissed the appeal.

04] This question has been considered by the Division Bench in 2015(2) Mh.L.J. 707 (Namdeo s/o Baburao Ingale and others vs. Scheduled Tribe Caste Certificate Scrutiny Committee, Amravati and others), wherein it has

been held that the primary duty of the authority issuing the caste/tribe certificate is to consider the documents necessary only for issuance of such certificate and not with a view to record a finding that the applicant belongs to such caste/tribe. It has also been held that the Sub Divisional Officer has no power to verify the caste claim of the applicant and the same is the duty of the Scrutiny Committee.

05] When the impugned orders are perused in this context, it becomes clear that the Sub Divisional Officer has undertaken the duty of verification instead of considering the prayer for issuance of the tribe certificate. We, thus, find that the impugned orders are contrary to the decision of this Court in the case of Namdeo Baburao Ingale (supra).

06] Hence, for the aforesaid reasons, the order dated 17/02/2022 passed by the Sub Divisional Officer as well as the order dated 30/11/2022 passed by the Scrutiny Committee are set aside. The proceedings are remanded to the Sub Divisional Officer to consider the petitioner's documents afresh and thereafter take a decision, whether the certificate as demanded can be issued. To enable this exercise to be performed, the petitioner shall appear before the Sub Divisional Officer on 13th March, 2023. Necessary decision on the said documents to be taken within a period of ten days from that date.

07] With this direction, the writ petition is allowed and disposed of.
Rule accordingly. No costs.

08] Authenticated copy of this order be furnished to the learned
Counsel for the parties to act upon.

(M.W. CHANDWANI, J.)

(A.S. CHANDURKAR, J.)

**sandesh*