



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

WRIT PETITION NO. 2833 OF 2024

1. Ankita d/o Mansaram Nikumbhe
 2. Kamlesh Mansaram Nikumbhe
 3. Sharmila Mansaram Nikumbhe
 4. Jyosna d/o Mansaram Nikumbhe
- ...Petitioners

Versus

1. The State of Maharashtra
Department of Tribal Development
Manralaya, Mumbai.
 2. The Scheduled Tribe Caste Certificate Scrutiny
Committee, Dhule,
Through Its Member Secretary.
 3. Shri. Rahul Jadhav
The Sub Divisional Officer,
Dhule, Tq. and Dist. Dhule.
- ...Respondents

...

Advocate for Petitioner : Mr. Yeramwar Sushant C.
AGP for Respondents/State : Mr. K.N. Lokhande

...

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

DATE : 11 JULY 2024

PER COURT :

- . Leave granted to correct the title.
2. The petition presents before us startling facts.
3. The petitioners who were seeking tribe certificates, were aggrieved by the order of the competent authority, rejecting their

applications. They preferred a statutory appeal before the respondent/Scrutiny Committee under Section 5 of the Maharashtra Act No.XXIII of 2001. By the order dated 21.09.2023 for the reasons recorded therein, the Committee quashed and set aside the orders passed by the competent authority and remanded the matters back to him *inter alia* considering the fact that pursuant to the orders passed in Writ Petition No.4788/2023, one of the blood relatives was directed to be issued with tribe certificate and that should have been sufficient for the competent authority to allow the petitioners' applications.

4. It is now being pointed out that even after such remand, when the applicants approached the respondent no.3 and requested for passing a fresh order, by the communication dated 07.12.2023, the respondent no.3 expressly refused to reconsider the matter observing that their applications were already decided by him earlier.

5. It was a statutory appeal before the Scrutiny Committee under Section 5 of the Maharashtra Act No.XXIII of 2001, setting aside the order passed by the respondent no.3 and remanding the matters for fresh decision particularly for the reasons recorded in the order of the Scrutiny Committee dated 21.09.2023. The conduct of the respondent no.3 in refusing to pass a fresh order is clearly an abdication of duty. It would be more startling if his attention was brought to the decision of the Scrutiny Committee, remanding the matter. Precisely for this reason, as per our direction, he has been

made a party by name. We expect him to file an affidavit explaining the aforementioned circumstances.

6. Issue notice to all the respondents, returnable on 18.07.2024. Learned AGP waives service for respondent no.1 and 2. Hamdast is allowed.

7. We are taking cognizance of the aforementioned circumstance independent of the merits of the present petition.

8. As far as the petition is concerned, we allow the petition and direct the respondent no.3 to pass a fresh order in the light of the directions of the Scrutiny Committee contained in the order dated 21.09.2023, as early as possible and in any case within two weeks.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb..