



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

WRIT PETITION NO. 13491 OF 2024

**SANKET SUDAM INGOLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS**

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Advocate for the Petitioner : Mr. Jadhavar Pratap V.
AGP for Respondents/State : Mr. S.P.Joshi

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**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 11th DECEMBER 2024

PER COURT :

. Issue notice to respondents. Learned AGP waives service of notice for all the respondents. Considering exigency in the matter heard this matter finally at the admission stage.

2. The petitioners are staking their claim to Scheduled Tribe 'Koli Mahadev'. They had submitted application to the respondent no.3- Competent Authority seeking tribe certificate. Relevant documents were also placed before the authority in support of their claim. Their applications were rejected by distinct orders passed by Respondent No.3/Scrutiny Committee on 30.11.2019.

3. Being aggrieved they preferred the appeal under Section 5(1) of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified

Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 before respondent no.2 /Scrutiny Committee. By common judgment and order dated 11.10.2023 their appeals were dismissed confirming the order passed by Respondent No.3/Authority. Against the concurrent finding of fact the present petition is preferred.

4. Learned Counsel for the petitioner submits that there was cogent material before both the authorities below. Petitioner had produced the tribe certificate of Madhukar Sakharam Ingole and validity certificate of Laxman Bhagwan Ingole who are their blood relatives. The record was also before the authorities. Despite that the petitioners have been denied the tribe certificate. Learned Counsel submits that approach of the authorities below is against law laid down in **Anand Dhanjajay Nalawade Vs. State of Maharashtra** reported in 2014 (4) Mh.LJ 77.

5. Learned AGP supports impugned judgment and order passed by Appellate Authorities as well as competent authority. He would submit that no cogent evidence was produced by the petitioners. The relationship of the petitioners which the validity holder has not been established. The Respondent No.2/Scrutiny Committee is justified in dismissing the appeals and no interference is called for.

6. We have considered rival submissions of the parties. The

respondent no.3/ Sub-Divisional Officer (Competent Authority) rejected the applications of the petitioners by very cryptic order. The authority did not take into account the documentary evidence placed before it including tribe certificate of Madhukar Sakharam Ingole and validity certificate of Laxman Bhagwan Ingole. No objective scrutiny has been made by the authority.

7. The Respondent No.2/Scrutiny Committee recorded finding regarding place of residence of the members belonging to Scheduled Tribe Koli Mahadev. It has also been recorded that no evidence was produced prior to deemed date.

8. We find that the school record, tribe certificate of Madhukar Sakharam Ingole and validity certificate of Laxman Bhagwan Ingole were before the authorities. The relationship of Laxman Bhagwan Ingole who is the validity holder has been disclosed by way of affidavit. Both the authorities below overlooked the clinching piece of evidence. The scope of enquiry to be conducted at the stage of issuing tribe certificate is laid down by petitioner in the matter **Anand Dhanjajay Nalawade** (supra).

9. In this regard it has been consistently held by the Coordinate Benches that the enquiry is a prima facie enquiry. The place of residence, the relationship and the genealogy would be gone into when the tribe certificate is under the scrutiny of its validation.

10. Under this facts and circumstances, we find that both the authorities committed grave error of jurisdiction. The impugned order and judgment is liable to quash and set aside. We therefore pass following order :

ORDER

- i) The orders passed by Respondent No.3/Sub-Divisional Officer dated 30.11.2019 and common judgment and order dated 11.10.2023 passed by respondent no.2/Scrutiny Committee are quashed and set aside.
- ii) The Respondent No.3/Sub-Divisional Officer shall issue tribe certificate to the petitioners forthwith in prescribed form.
- iii) The Writ Petition is allowed in above terms.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

vsj..