

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8668 OF 2023

Rushikesh s/o. Ravindra Jadhav & Ors. ... Petitioner

Versus

The State of Maharashtra & Ors. ... Respondents.

Ms. Vaishali B. Suryawanshi, for Petitioner.

Ms. P.M. J. Deshpande, AGP, for Respondent/State.

**CORAM: NITIN W. SAMBRE &
ASHWIN D. BHOBE, JJ.
DATED : 27th JANUARY, 2025**

P.C:-

1. By this Petition, the Petitioners assail the orders dated 31.01.2022 and 31.01.2023 passed by the Respondent Nos. 3 and 2 respectively. The grievance of the Petitioners basically is that the Respondent No. 2 has not considered the document of pre-constitutional period i.e. document dated 2nd April, 1923.

2. We have perused the order dated 31.01.2022 passed by the Respondent No. 3 wherein the Respondent No. 3 has made the following observations with reference to the said document.

The observation is prescribed in verbatim.

"सदरहू अर्जदार यांचे आजोबा यांचा जन्म मरणाचा उतारा पाहता, सदरचा उतारा हा मोने खनापूर ता. अक्कलकोट जि. सोलापूर येथील असल्याचे दिसून येत आहे. त्यामध्ये महादेव कोळी अशी जात नमूद आहे. त्यामध्ये जन्म दिनांक 02/04/1923 असा नमूद आहे. पण सदरचा पुरावा हा या उपविभागातील दिसून येत नाही. तसेच या पुराव्या शिवाय या उपविभागातील रहिवास बाबतचे पुरावे सादर केले नाहीत. सदरहू पुरावा मानिय दिनांकापूर्वीचा आहे. तथापी सदरहू पुराव्याव्यतिरिक्त कोळी महादेव अनुसूचित जमात असलेने सिध्द करणारे तसेच अर्जदार हे अन्य कोणतेही सबळ पुरावे सादर करू शकलेले नाहीत."

3. Reasons given by the Respondent No. 3 for refusing to consider the said document dated 2nd April, 1923 are erroneous.

4. In view of the above, the conclusions of the Respondent No. 3 with reference to the document dated 2nd April, 1923 in the orders impugned are quashed and set aside. Consequently, the orders in Appeal dated 31st January, 2023 passed by the Respondent No. 2, impugned are also quashed and set aside.

5. The matter is remanded to the Respondent No. 3 for

reconsideration of document dated 2nd April, 1923.

6. The Respondent No. 3 is directed to consider the case on its own merits after hearing the parties. The respondent No. 3 shall endeavour to dispose of the proceedings at the earliest and at any rate by 30th April, 2025.

7. The Petition is partly allowed.

(ASHWIN D. BHOBE, J.)

(NITIN W. SAMBRE, J.)