



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12479 OF 2025

Kunal Saibu Waikar,
Age: 28 years, Occupation: Service,
R/o: At and Post Matul,
Taluka Bhokar,
Nanded-431801.

...Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai-32.
2. The Scheduled Tribe Certificate Scrutiny Committee,
Kinwat Division, Aurangabad,
Through its Member Secretary.
3. The Chief Engineer (Technical),
Estrella Barricade Batteries Expansion Building.
Ground Floor, Plot No. 1, Dharavi Road,
Matunga, Mumbai-400 019.
4. The Chief Engineer (Technical),
Bhusawal Industrial Vitaran Kendra
(Industrial Distribution Center)
Deepnagar, Taluka Bhusawal,
District Jalgaon.

...Respondents

Advocate for Petitioner : Mr. A.D. Sonkawade h/f. Mr. S. G. Jayewar
AGP for Respondent/State : Mr. M.A. Aher
Advocate for Respondent Nos.3 and 4 : Mr. Anil M. Gaikwad

CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.

RESERVED ON : 23rd JANUARY 2026
PRONOUNCED ON : 03rd FEBRUARY 2026

JUDGMENT : (*PER : ABASAHEB D. SHINDE, J.*)

. Heard.

2. Rule. Rule is made returnable forthwith. With the consent of the parties, the Writ Petition is heard finally at the stage of admission.

3. By this Writ Petition, the petitioner has put forth the following main reliefs :

“A. Call for record and proceedings of the case.

B. Issue a writ of mandamus or writ in the like nature directing the respondent No.4 to permit the petitioner to resume his duties on the post of Graduate Engineer Trainee at Bhusawal Industrial Vitaran Kendra (Industrial Distribution Center) during the pendency of the proposal dated 25.03.2025 for verification of the tribe certificate.

C. Issue a writ of mandamus or writ in the like nature directing the respondent No.2 to decide the proposal dated 25.03.2025 for verification of the tribe certificate within reasonable time.

D. Pending hearing and final adjudication of the present writ petition issue a writ of mandamus or writ in the like nature directing the respondent No.4 to permit the petitioner to resume his duties on the post of Graduate Engineer Trainee at Bhusawal Industrial Vitaran Kendra (Industrial Distribution Center) during the pendency of the proposal dated 25.03.2025 for verification of the tribe certificate.

E. Pending hearing and final adjudication of the present writ petition issue a writ of mandamus or writ in the like nature directing the respondent No.2 to decide the proposal dated 25.03.2025 for verification of the tribe certificate within reasonable time.”

4. Learned counsel for the petitioner submits that the petitioner has been appointed by the respondent Nos.3 and 4 to the post of Graduate Engineer Trainee reserved for Scheduled Tribe. He would submit that since the appointment of the petitioner is from reserved category and the petitioner belongs to 'Koli Mahadev' Scheduled Tribe, the respondent Nos.3 and 4 forwarded a proposal seeking verification of tribe claim of the petitioner to the respondent No.2/Scrutiny Committee on 25.03.2025. He further submits that pursuant to appointment order dated 05.07.2024, the petitioner under the orders of respondent Nos.3 and 4 has also completed his training. However, when he approached respondent Nos.3 and 4 for resuming duties after completing the training period on 01.09.2025, the respondent Nos.3 and 4 did not allow the petitioner to resume to his post on the ground that the petitioner has failed to submit his tribe validity certificate in view of a clause enumerated in the appointment order. He therefore, submit that since the petitioner is not at fault for a delay on the part of respondent No.2/Scrutiny Committee in deciding his tribe claim he therefore, urge for allowing the Writ Petition in terms of prayer clauses hereinabove.

5. In order to buttress his submission that pending the tribe claim of the petitioner, the petitioner is entitled for resuming his duties, the learned counsel for the petitioner relied on the judgment of this Court in the case of *Shrikant Chandrakant Saindane vs. State of Maharashtra and others* reported in 2012(1) Mh.L.J.787 and the judgment in the case of *Saima Parveen Mohd. Khan vs. Municipal Corporation, Akola through its Commissioner and others* reported in 2014 SCC Online Bom.3836 so also the judgment in the case of *Kum.*

Rajeshri Parmeshwar Gampalwad and Others vs. State of Maharashtra and Others reported in (2017) 6 AIR Bom R 696.

6. *Per contra*, learned counsel appearing for the respondent Nos.3 and 4 strenuously contends that the Writ Petition deserves to be dismissed for suppression of facts. He would further submit that initially the petitioner was employed elsewhere wherein, his tribe claim was submitted for verification. However, the said tribe claim of the petitioner was turned down. He would submit that the fact of rejection of tribe claim of the petitioner has been suppressed by the petitioner and even when the petitioner was appointed by the respondent Nos.3 and 4, he did not disclose that his earlier tribe claim has already been turned down by the Scrutiny Committee.

7. According to learned counsel for respondent Nos.3 and 4 even when the petitioner made a representation to the respondent Nos.3 and 4 on 08.09.2025, he has admitted that his earlier tribe claim was turned down on 08.07.2022 meaning thereby, when the petitioner was appointed his tribe claim admittedly was not pending before the respondent/Scrutiny Committee. He therefore, submits that considering the conduct of the petitioner, the petitioner is not entitled for any relief as prayed for. He therefore, urge that the Writ Petition deserves to be dismissed.

8. In rejoinder, the learned counsel for the petitioner submits that though, it is true that his earlier tribe claim was turned down by the Scrutiny Committee however, the said order of rejection of his earlier tribe claim was challenged by the petitioner before this Court by filing Writ Petition No. 2647 of 2025 and the petitioner after withdrawing the said Writ Petition pursuant to liberty granted by this Court has

filed a fresh proposal on 25.03.2025 which is now pending before the Scrutiny Committee of which the petitioner is seeking expeditious disposal of.

9. Having heard the learned counsel for the petitioner and the learned AGP as well as learned counsel for respondent Nos. 3 and 4 and in the light of law laid down by this Court in the case of *Shrikant Chandrakant Saindane* (supra) which has been consistently followed by this Court in the case of *Saima Parveen Mohd. Khan* (supra) and *Kum. Rajeshri Parmeshwar Gampalwad and Others* (supra) as well as in several other matters, we find that the appointment of the petitioner cannot be withheld for non-submission of tribe validity certificate .

10. We are therefore of the view that the respondent Nos.3 and 4 cannot disallow the petitioner to resume his duties having appointed the petitioner and even by permitting him to undergo training on the ground that the tribe claim of the petitioner is pending.

11. Before parting, the conduct of the petitioner cannot be lost sight of as admittedly, the petitioner came to be appointed on 05.07.2024. His earlier tribe claim was already rejected on 08.07.2022. It is also pertinent to note that, when the petitioner came to be appointed on 05.07.2024 admittedly, the tribe claim of the petitioner was not pending. It is only when the respondent Nos.3 and 4 appointed the petitioner, that the said order dated 08.07.2022 was sought to be challenged before this Court that too after almost a period of three years by filing Writ Petition No. 2647 of 2025. It is worth to note that the petitioner withdrew the said Writ Petition and thereafter, submitted a proposal on 25.03.2025. Therefore, we find

that the petitioner has not come with clean hands before this Court and has withheld the material facts from the Court and therefore, though we are inclined to allow the Writ Petition, the petitioner needs to be mulct with cost. We, therefore, pass the following order :

ORDER

- i) The Writ Petition is allowed with cost.
- ii) The petitioner is directed to deposit a cost of Rs.25000/- (Rupees Twenty Five Thousand Only) with the Registry of this Court within a period of two weeks from today.
- iii) The Respondent No.2/Scrutiny Committee is directed to decide the proposal dated 25.03.2025 for verification of tribe claim of the petitioner of belonging to 'Koli Mahadev' Scheduled Tribe within a period of six months from today.
- iv) The Respondent No.4 is directed to allow the petitioner to resume his duties to the post of Graduate Engineer Trainee at Bhusawal Industrial Vitaran Kendra, (Industrial Distribution Center) pending the tribe claim of the petitioner within a period of three weeks from today.
- v) The service of the petitioner shall not be confirmed by the Respondent No.4 till the decision of his tribe claim and he would not be eligible for any further service benefits except

his salary until his tribe claim is validated either by the Scrutiny Committee or by any Court. This direction is issued with the consent of the petitioner.

vi) The appointment of the petitioner will be subject to final outcome of the tribe claim of petitioner and the petitioner will not claim any equities.

vii) If the petitioner deposits the cost of Rs.25000/-(Rupees Twenty Five Thousand Only) with the Registry of this Court within a stipulated period as directed above, the same shall be utilized for the High Court Medical Dispensary, Aurangabad.

vii) Rule is made absolute in above terms.

(ABASAHEB D. SHINDE, J.)

(SANDIPKUMAR C. MORE , J.)

vsj..