

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 387 OF 2015

DIPAK YUVRAJ SAPKALE
VERSUS
THE SCHEDULED TRIBE CERTIFICATE SCRUTINY COMMITTEE,
NANDURBAR AND OTHERS

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Advocate for Petitioner : Mr. Patil Vijay B.
AGP for Respondents: Mr.A.S.Shinde.
Advocate for Respondent No.1 : Mr. Patil Pravin S.
Advocate for Respondent No.3 : Mr. Chillarge Subhash S.

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CORAM : **S. V. GANGAPURWALA and
V. L. ACHLIYA, JJ.**

DATE : 17th February, 2015.

P.C.:

. Mr.V.B.Patil, learned counsel for the Petitioner submits that the caste claim of the Petitioner has been invalidated. The hearing had taken place before the members of the Committee in the year 2010 and no judgment was delivered. Subsequently, the members of the Committee changed. Notice was issued on 30th July, 2014, to remain present on 6th August, 2014. The Petitioner remained present on 6th August, 2014, and sought time and no further date was communicated. The Petitioner also appeared in the month of November, 2014. But, as per the impugned judgment, the matter was closed for orders on 6th August, 2014 itself and the judgment was delivered on 17th December, 2014. According to the learned counsel, no opportunity of hearing was given. The Petitioner may be given an opportunity of hearing and further be allowed to produce the documents on record.

2 Mr.P.S.Patil, learned counsel for Respondent – Committee submits

that it is the tactics played by the Petitioner in protracting the matter. The notice was issued on 30th July, 2014. The Petitioner even did not file application before the Committee, but just gave the application in the inward and did not remain present before the Committee. According to the learned counsel, the Committee, thereafter, closed the matter for orders on 6th August, 2014, and the judgment is delivered in December 2014. Ample opportunity is given to the Petitioner. Even the documents on record do not even remotely establish the case of the Petitioner. There is contra evidence. Not a single document establishes the case of the Petitioner of the tribe the Petitioner is claiming.

3 We have considered the submissions canvassed by the learned counsel for respective parties.

4 It is not disputed that the Petitioner had received the notice dated 30th July, 2014, and the matter was fixed on 6th August, 2014. It appears that the Petitioner had filed that application in the inward and did not thereafter, bother to know the next date from the Committee. When the proceedings are pending and the Petitioner had been issued notice of the date of hearing, it is the duty of the Petitioner to get the further dates and to see the order passed on his application. The Petitioner cannot absolve himself of the responsibility by saying that the Committee thereafter, did not intimate him the next date.

5 It appears that earlier the members of the Committee had heard the matter and closed the matter for orders in the year 2010, but, no further orders are passed. The question is about the social status of the Petitioner.

6 Considering the above, we are inclined to grant one opportunity to the Petitioner, but the Petitioner also deserves to be mulct with cost for the conduct of the Petitioner in not prosecuting his proceedings diligently.

7 In the result, we pass the following order:

- I. The impugned order is quashed and set aside on the condition that the Petitioner pays cost of Rs.30,000/- (Rupees Thirty Thousand Only) to the Committee on or before 9th March, 2015.
- II. The Petitioner is relegated before the Committee.
- III. The Petitioner shall appear before the Committee on 9th March, 2015.
- IV. On 9th March, 2015, the Petitioner may file whatever say and documents the Petitioner wish to file.
- V. No further adjournment would be given to the Petitioner for filing the documents.
- VI. The Petitioner shall attend each and every date as given by the Committee, thereafter, without fail.
- VII. The Committee shall decide the said proceedings after hearing the Petitioner within two months from the date of appearance.
- VIII. Accordingly, the writ petition is disposed of. No costs.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

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