

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

WRIT PETITION NO. 656 OF 2015

Sanjivani d/o Bibhishan Dahibhate,
Ag: 27 years, Occu: Service,
R/o. At Post Kasthi (Bk), Tq. Lohara,
Dist. Osmanabad, at present
T.P.S. Road, Osmanabad,
Tq. & Dist. Osmanabad.

... **PETITIONER**

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai – 32.
2. The District Collector,
Sangli, Dist. Sangli.
[Copies of Resp. No.1 & 2 be
served on G.P. High Court,
of Bombay, Bench at Aurangabad.)
3. Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad
Region, Aurangabad.

... **RESPONDENTS**

Mr. Sanjaykumar B. Bhosale, Advocate for the Petitioner.
Mr. G.K.Thigale, AGP for Respondent Nos.1 and 2.
Mr. K.D.Bade Patil, Advocate for Respondent No.3.

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

DATE : 16th January, 2015.

ORAL JUDGMENT: (Per S. V. Gangapurwala, J.)

1 Rule.

2 Learned AGP waives notice of Rule for Respondent Nos.1
and 2 and Mr.K.D.Bade Patil, learned counsel waives notice of Rule for
Respondent No.3.

3 With the consent of the learned counsel for the parties, the
petition is taken up for final hearing.

4 Mr. Bhosale, learned counsel submits that the Committee
has cancelled and confiscated the tribe certificate of the Petitioner
without hearing the Petitioner and without notice to the Petitioner. The
learned counsel submits that the said order is passed behind the back
of the Petitioner. The Petitioner was unaware about the said order
being passed. Subsequently, on 12th January, 2015, the Respondent –
Authority issued show cause notice asking the Petitioner to reply within
seven days as to why his appointment shall not be cancelled.
According to the learned counsel, the same is also illegal.

5 Mr.Bade Patil, learned counsel for the Respondent – Committee
states that the facts on record were so explicitly clear that no other view
was possible. The Committee has rightly passed the order.

6 Mr.Thigale, learned AGP submits that the Petitioner was

appointed on a reserved post and as his tribe certificate itself was cancelled and confiscated, the Authorities have rightly issued the said notice.

7 We have considered the submissions canvassed by the learned counsel for the respective parties. It is not disputed that the Committee has cancelled and confiscated the tribe certificate of the Petitioner without notice to the Petitioner and without hearing the Petitioner.

8 It is a settled proposition of law that whenever an order adverse to the interest of any party is passed, adherence to the principles of natural justice is mandatory. As the impugned order is in derogation of the principles of *Audi Alteram Partem*, the same cannot be sustained and is required to be set aside.

9 As the order passed by the Committee itself is being set aside, the impugned show cause notice also would not survive. In light of the above, we pass the following order:

- I. The order dated 31st July, 2014, passed by the Committee is quashed and set aside. The Committee shall after hearing the Petitioner decide about the said aspect afresh.
- II. The Petitioner shall appear before the

Committee on 4th February, 2015.

- III. As the judgment of the Committee itself is quashed and set aside, the impugned notice dated 12th January, 2015, also stands set aside. However, it is made clear that depending upon the judgment of the Scrutiny Committee, the Respondent Nos.1 and 2 may take appropriate steps in case of the Petitioner.
- IV. Rule is accordingly made absolute. No order as to costs.

ndm

[V.L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]