

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

WRIT PETITION NO. 1398 OF 2015

Ayub S/o Munishwarkhan Pathan,
Age : 44 Years, Occu : Service,
R/o. Osmanabad,
Tq. & Dist. Osmanabad. .. Petitioner

Versus

1. The State of Maharashtra,
Tribal Development Department,
Through its secretary,
Mantralaya, Mumbai – 32
2. The Scheduled Tribe Certificate
Scrutiny Committee, Aurangabad,
Through its Deputy Director / Member
3. The Tahsildar / Executive Magistrate,
Osmanabad, Tq. & Dist. Osmanabad
4. The District Information Officer,
Osmanabad, Tq. & Dist. Osmanabad .. Respondents

Shri P. V. Jadhavar, Advocate for Petitioner.
Shri P. N. Mule, A.G.P. for Respondent Nos. 1, 3 and 4
Shri P. S. Patil, Advocate for the Respondent No. 2

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

DATE : 05TH FEBRUARY, 2015

ORAL JUDGMENT (Per V. L. Achliya, J.) :-

- 1) Rule. Rule made returnable forthwith. With the

consent of the parties, taken up for final hearing at the stage of admission.

2) The petitioner has filed the present petition challenging the order dated 26.08.2014 passed by the respondent No. 2-Committee, whereby the tribe certificate issued in favour of the petitioner has been ordered to be cancelled and confiscated.

3) We have heard the learned counsel for the petitioner, the learned A. G. P. for the State and the learned counsel representing for the Caste Scrutiny Committee.

4) The petitioner has assailed the impugned order mainly on the ground that, the order has been passed without any opportunity of hearing being provided to the petitioner.

5) The learned counsel for the respondent No. 2/Committee submits that, the order has been rightly passed by the committee considering the place of residence of the petitioner's father and ancestors and no illegality has been committed in passing the impugned order.

6) We are of the considered opinion that, the impugned order is not sustainable in law solely on the ground that, the same has been passed without affording an opportunity of hearing to the petitioner before passing the impugned order. While adjudicating the tribe claim of any person the Committee

is bound to observe the principles of natural justice. Since the Committee has taken decision to cancel and confiscate the tribe certificate of the petitioner, it was expected on the part of the Committee to observe the minimum requirement of principles of natural justice.

7) In the light of that, the impugned order cannot be sustained and same required to be set aside.

8) The impugned order is quashed and set aside. The respondent-Committee shall pass order with regard to the tribe certificate of the petitioner afresh after hearing the petitioner. The petitioner shall appear before the Committee on 25.02.2015. As the order is set aside on the ground that the petitioner was not heard, we have not considered the merits of the order. All contentions of the respective parties are kept open.

Rule accordingly is made absolute in above terms. No order as to costs.

Sd/-
[V. L. ACHLIYA, J.]

Sd/-
[S. V. GANGAPURWALA, J.]