

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.4468 OF 2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.S.M.Vibhute, advocate for the Petitioner.
 Mr.U.S.Mote, Asstt. Govt. Pleader for the State.
 Mr.A.P.Yenegure, advocate holding for Mr.P.S.Patil,
 advocate for Respondent No.2.

**CORAM : S.V.GANGAPURWALA &
 A.I.S.CHEEMA, JJ.**

Date : 30.04.2015.

PER COURT :

1. Heard.
2. Mr.Vibhute, learned counsel submits that when the petitioner was studying in XII standard, the School authorities had referred the proposal of the petitioner for validity of the tribe certificate of the petitioner as "Koli Mahadeo" Scheduled Tribe in the year 2002. In the year 2003, the petitioner was married and had left the said School. The petitioner at no point of time was served with the notice from the Scrutiny Committee. The petitioner had applied for the State Service main examination from the ST category and the interview of the petitioner was also held on 7.2.2015. The petitioner was required to submit validity certificate.

As such the petitioner approached the Committee on 12.3.2015 and made an application, at that time the petitioner got the knowledge that the decision is already taken on 29.9.2004. The petitioner had not received any such order. The learned counsel submits that even the vigilance report was never served on the petitioner. The real sister of the petitioner has been issued validity certificate as belonging to 'Koli Mahadeo' Scheduled Tribe.

3. Mr.Bade Patil, learned counsel for the Committee submits that at least ten times, the petitioner has been communicated about the dates of the proceedings by issuing Registered letters. The petitioner did not appear even on a single occasion. The learned counsel submits that it is the duty of the petitioner to attend the validation proceedings. The petitioner can not take advantage of her own wrong. Time to time, the matter was adjourned for enabling the petitioner to appear. The basic record of the father and uncle of the petitioner is Koli and not Mahadeo Koli.

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

5. The fact that the proposal was referred to the validation Committee is not disputed. From the record it appears that even letters are issued from time to time communicating the petitioner of the dates of hearing. The petitioner at no point of time had appeared before the Committee. There does not appear any proof of

the service of those letters upon the petitioner. However, it is also duty of the petitioner to attend the proceedings when the petitioner is seeking validity of her tribe claim. The reasons are given that after the tribe claim was referred to the Committee, immediately next year the petitioner got married and did not prosecute the said proceedings. There is lethargy on the part of the petitioner in prosecuting the proceedings.

6. Considering the fact that the proceedings are with regard to the social status of the petitioner, we are inclined to give one opportunity to the petitioner, however, the petitioner deserves to be mulct with costs for not attending the matter and delay in coming to this Court.

7. In the result, we pass the following order :

a) The impugned order of the Committee is quashed and set aside on condition that petitioner pays cost of Rs.50,000/- (Rupees fifty thousand only) to the Committee by 25.5.2015. The payment of cost is condition precedent. In case the cost as directed above is not deposited, the impugned judgment of the Committee shall stand confirmed. In case the cost as directed is deposited then the Committee shall decide the proceedings afresh, however, it will not be necessary to conduct fresh vigilance. The petitioner is entitled to file additional evidence. As the date is already given by this Court, it is not necessary for the Committee to issue fresh notice to

the petitioner.

(A . I . S . CHEEMA , J .)

(S . V . GANGAPURWALA , J .)

Dt..30.04.2015.
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