

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3626 OF 2013

DURGESH BHARATLAL RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for petitioner : Mr. Anandshigh S. Bayas
A.G.P. for respondent Nos. 1 and 3 : Mr. S. G. Sangle
Advocate for respondent No. 2 : Mr. K. D. Bade Patil
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**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 6th AUGUST, 2015

P.C. :-

1. The petitioner assails the order invalidating his tribe claim passed by the Committee. Mr. Bayas, the learned counsel for the petitioner states that the proceedings were referred to the Committee with regard to the claim of the petitioner as belonging to Thakur Schedule Tribe. However, the petitioner was never communicated of the further dates of hearing after 27.08.2002, so also, was not communicated the order passed by the Committee. According to the learned counsel, the said proceedings are as good as *ex parte*. The learned counsel submits that it is only in the year 2012 when the petitioner approached to the committee to get information of his pending proceedings, the petitioner got knowledge that the validation proceedings are disposed of on 10.06.2003. The learned counsel submits that an opportunity be given to the petitioner to prove his case before the Committee.

2. Mr. Bade Patil, the learned counsel for the respondent Committee submits that in the year 2003, a fresh address was supplied by the petitioner. The communications were issued on the said fresh address also, but all these communications were returned unserved on the ground that the address is not correct. The learned counsel submits that the Committee has given ample opportunity to the petitioner, however, the petitioner did not participate in the further proceedings and upon the available record and considering the vigilance report, the Committee has decided the said proceedings.

3. We have considered the order passed by the Committee. There is no record to show that the petitioner was served with the notice of the further dates of hearing. Of course, the record shows that notices were issued to the petitioner on the address given by the petitioner but the same returned unserved. The petitioner could not lead his evidence further. At the same time, it is to be observed that the petitioner also did not take any further steps to participate in the proceedings on his own. There was no impediment for the petitioner to get the knowledge of his proceedings which were pending. The pendency of the proceedings in the year 2002-2003 was within the knowledge of the petitioner. It was also the duty of the petitioner to attend the proceedings and get the knowledge about the stages and the pendency of the proceedings.

4. Considering the fact that the matter involves the social status of

the petitioner, we are inclined to give one more opportunity to the petitioner, however, the petitioner also deserves to be mulct with costs.

In the light of above, we pass the following order :

ORDER

- I. The impugned order is quashed and set aside on condition that the petitioner pays cost of Rs. 30,000/- to the respondent Committee within a period of four (4) weeks from today. The payment of cost is condition precedent. In case the said cost is paid within four (4) weeks, the Committee shall decide the validation proceedings in respect of tribe claim of the petitioner expeditiously.
- II. The evidence which is already referred to in the original proceedings shall be considered including the vigilance report.
- III. The petitioner shall appear before the Committee on 3rd September, 2015. The petitioner is permitted to produce additional evidence if he so chooses. In view of the fact that the petitioner is directed to appear before the Committee, there is no need for the Committee to issue separate notice.
- IV. The writ petition is accordingly disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)