

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10535 OF 2014

Mr. Sapremsing Madhavrao Patil Petitioner

vs

- 1 State of Maharashtra
- 2 Divisional Caste Certificate Scrutiny
Committee No.3, Mumbai Suburban
District, through its Member Secretary
having its office at Administrative
Building, 5th Floor, Near Chetna
College, Bandra(East), Mumba-51
- 3 Vidyarthi Vikas Mandal
through its Headmaster, having its
office at 148, Abhyuday Nagar,
Kala Chowky, Mumbai 400 033 Respondents

Mr. R.K. Mendadkar with ms. Helen Koli Mahadik for the petitioner.

Ms.S.S. Bhende, AGP for respondents/State.

Mr. Milind Patil, Law officer present.

**CORAM: ANOOP V. MOHTA AND
K. R. SHRIRAM, JJ.**

DATE : March 20, 2015

ORAL JUDGMENT (Per Anoop V. Mohta,J.):

Rule. Rule is made returnable forthwith. Heard finally by consent of parties.

2 The learned counsel appearing for the Petitioner contended that the basic requirement of Rule 17(11) of the Maharashtra Scheduled Castes, denotified tribes (Vimukta Jatis), nomadic tribes, other Backward classes and Special Backward Category (Regulation of Issuance and verification of) Caste Certificate Rules, 2012 is not followed. No show cause notice and/or mandatory notice issued and/or served. The learned AGP appearing for the Respondent, on instructions of the law officer Mr. Milind Patil, makes statement and confirmed the said position, after verifying the record of the Petitioner. However, submission is made that the Petitioner did file reply to the Vigilance Committee report. This, in our view, in no way sufficient, not to issue show cause notice as contemplated. It is not the case of the Department that they are satisfied with the Vigilance Committee report and the reply so filed by the Petitioner. The purpose of so-called notice is to give opportunity to all the parties concerned so that after due deliberation and giving opportunity of all kind, final order for

and/or against can be passed deciding the caste claim of the Petitioner. Therefore, as the basic show cause notice was not issued, the order so passed, in our view, is unsustainable and contrary to the law, apart from the principle of natural justice.

3 This Court in Writ Petition No.10570/2014-Harshalsing S. Patil v. State of Maharashtra, decided on 20.02.2015, in similar matter, has set aside such order for want of show cause notice. Therefore, we are inclined to set aside the impugned order. However, liberty is granted to the concerned Respondents to issue show cause notice in accordance with law.

4 Therefore, the Writ petition is allowed in terms of prayer (a). However, liberty is granted to the Respondents to issue show cause notice in accordance with law.

5 Rule is made absolute accordingly.

6 There shall be no order as to costs.

(K. R. SHRIRAM, J.)

(ANOOP V. MOHTA, J.)