

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.5716 OF 2016

Laxman Babarao Mamde,
age: 32 years, Occ: Service,
R/o N-6, CIDCO, Aurangabad,
Tq. & District Aurangabad.

Petitioner

Versus

01 Scheduled Tribe Certificate
Scrutiny Committee,
Aurangabad Division,
Aurangabad, through its
Member Secretary.

02 Director of Technical Education,
Maharashtra State,
3, Mahapalika Marg, Mumbai.

03 Joint Director,
Technical Education,
Maharashtra State,
Divisional Office, Aurangabad.

04 Government Engineering College,
Aurangabad, through
its Principal.

Respondents

Mr.S.S.Phatale, advocate for the petitioner.
Mr.M.B.Bharaswadkar, AGP for Respondents.

**CORAM : R.M.BORDE &
K.L.WADANE, JJ.**

DATE : 09th June, 2016

ORAL JUDGMENT (Per R.M.Borde, J.):

1 Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The petitioner is objecting to the order dated 19th May, 2016, passed by the Scrutiny Committee directing invalidation of tribe certificate issued to him certifying that he belongs to Koli Mahadev, Scheduled Tribe.

3 The only grievance raised by the petitioner is that the Scrutiny Committee has not adhered to the provisions of Rule 12(8) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003 (for short, "Rules of 2003").

4 It is not a matter of dispute that the petitioner has received vigilance cell report personally on 13th May, 2016 and requested the Committee to grant time of one month, by tendering an application on 17.05.2016. The Committee, however, prescribed the matter for hearing on 19.05.2016 overruling request made by the petitioner for grant of time.

5 Rule 12(8) of the Rules of 2003 provides that, if the Scrutiny Committee, on the basis of the Vigilance Cell report and other documents available, is not satisfied about the claim of the applicant, the Committee shall issue a show cause notice to the applicant and also serve a copy of the report of the Vigilance Officer by registered post with acknowledgment due. A copy shall also be sent to the Head of the Department concerned, if necessary. The notice shall indicate that the representation or reply, if any, should be made within fifteen days from the date of receipt of the notice, and in any case not more than thirty days from the date of receipt of the notice.

6 In the instant matter, the Committee did not grant even fifteen days time as required under Rule 12(8) of the Rules of 2003 and hurriedly decided the matter on 19.05.2016. The Committee has observed in the order that since the High Court has directed expeditious disposal of the claim, the matter is decided urgently. However, it must be noticed that this Court has not directed the Scrutiny Committee to by pass mandate of the Rules and decide the matter hurriedly. It was necessary for the Committee to observe mandate of Rule 12(8) of the Rules of 2003 and grant sufficient opportunity of hearing to the petitioner.

7 Since the order is in violation of mandate of Rule 12(8) of the Rules of 2003, same deserves to be quashed and set aside and same is accordingly quashed and set aside. The petitioner shall tender his reply to the vigilance cell report by 09th July, 2016 and the Committee shall thereafter decide the matter after extending an opportunity of personal hearing to the petitioner within a period of three months from today. The petitioner shall not seek any adjournment, shall remain present before the Committee on the dates prescribed by the Committee and shall cooperate in disposal of the matter.

8 Rule is made absolute in aforesaid terms. There shall be no order as to costs.

K.L.WADANE
JUDGE

adb/wp571616

R.M.BORDE
JUDGE