

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

5 WRIT PETITION NO. 181 OF 2017

SHYAM PURUSHOTTAM TERKAR
VERSUS
SCHEDULED CASTE VIMUKTHA JATI THROUGH ITS
MEMBERSECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. D.B. Shinde h/f. Deshmukh Mahesh S.
AGP for Respondents: Mr. P.S. Patil
...

**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.**
DATE : 21.06.2017.

P.C. :-

. The petitioner's claim as belonging to 'Khatik' Scheduled Caste has been rejected and his caste certificate is invalidated by the first respondent-Scrutiny Committee. It passed its order on 17.11.2016.

2. The only argument that impresses us is that the petitioner forwarded his caste certificate for scrutiny through his employer and was waiting for its scrutiny and verification by the committee. The committee was seized of the claim from July 2013. It took three long years but in the order of the committee itself we find that there is a reference to the notice of hearing issued to the petitioner. At short notices the petitioner was told to appear before the committee. The committee does not record

that the petitioner was in receipt of these notices and yet did not appear. On one such notice dated 21.07.2016 the petitioner was called upon to appear before the committee on 26.09.2016 and there is no finding in the impugned order that this notice was duly served and though it was received by the petitioner he chose not to remain present, that all the notices prior to this date also were served but the petitioner failed to respond. We find a very curious position and emerging from the committee's order itself.

3. The committee posted the matter on 26.09.2016 and has apparently heard the Headmaster of the school where the petitioner is employed. The school records were perused by the committee and compared with that of the father of the petitioner to whom it issued a caste validity certificate. All this was done in the absence of the petitioner or his father. The Headmaster was asked to clarify on certain issues and his presence was taken as that of the petitioner. The order was pronounced not on 26.09.2016 but on 17.11.2016. If the order was reserved from this date then, the committee ought to have called the petitioner and given him a last opportunity to appear before it. No loss or prejudice could have been caused to the committee for it was not deciding a matter forwarded to it for decision in a time bound manner.

There was no direction of any higher authority or Court either. In such circumstances, the committee proceeded in undue haste and has breached the principles of natural justice by denying a fair, just and reasonable opportunity to the petitioner to appear and substantiate his claim.

4. On this short ground alone, the writ petition succeeds.

5. The impugned order is quashed and set aside. The matter is remitted back to the Scrutiny Committee for a decision afresh on merits and in accordance with law. The committee shall issue an advance notice to the petitioner to appear and grant him sufficient time for proving his claim. If despite such opportunity is extended and the petitioner fails to appear, the committee can proceed ex-parte.

[MANGESH S. PATIL, J.]

[S.C. DHARMADHIKARI, J.]