

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

73 WRIT PETITION NO. 1375 OF 2012

AMIR PATHAN DULEKHAN PATHAN

VERSUS

THE STATE OF MAH AND ORS

...

Advocate for Petitioner : Mr.Golegaonkar Anil S.

AGP for Respondents:Mr.P.S.Patil.

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 7th March, 2017

ORDER:

1. Mr. Golegaonkar, the learned counsel for the petitioner states that, the tribe claim of the petitioner as belonging to the 'Tadvi' - Scheduled Tribe is invalidated in the year 1996. The same was communicated to the petitioner in the year 2012. The petitioner was not aware of the invalidation of his tribe claim as the order was not communicated to the petitioner. The learned counsel submits that subsequently, in the year 2010, the son of the petitioner has been granted validity certificate as belonging to 'Tadvi' - Scheduled Tribe. The same was granted after conducting vigilance. According to the learned counsel, there are voluminous documents showing the petitioner's tribe as 'Tadvi'. The committee has rejected the tribe claim of the petitioner without

considering any of the documents submitted to it. No affinity test is conducted. In wake of the fact that the son of the petitioner has been granted validity, the petitioner deserves to be given validity of 'Tadvi' Schedule Tribe.

2. Mr.Patil, the learned AGP submits that though the tribe claim of petitioner was invalidated in year 1996, in the year 2010 the petitioner submitted a fresh proposal seeking the verification of his tribe. The same is not permissible. The factum of rejection of the tribe claim of the petitioner was suppressed when validation certificate was obtained by the son of the petitioner.

3. We have considered the submissions.

4. It is the case of the petitioner that the petitioner was not aware of the invalidation of his tribe claim since the department had never informed the petitioner of the rejection of the tribe claim. The Petitioner was continued in service. According to the petitioner, it is only in the year 2010, when the petitioner was due for promotion and promotion was not given, the said order was communicated in 2012.

5. Be that as it may, we have gone through the order passed by the Committee. The order of the Committee is without conducting affinity test. The order no where mentions the documents relied by the petitioner. The order has been passed in a slipshod manner.

6. Considering the above, the impugned order invalidating the tribe claim of the petitioner is quashed and set-aside.

7. The parties are relegated before the committee. The petitioner may file additional documents substantiating his tribe, so also the validity certificate granted to his son. The committee naturally will have to conduct the vigilance and decide said proceedings afresh.

8. The petitioner shall appear before the Committee on 30th March 2017.

9. Considering the fact that the matter is remitted back, the committee shall endeavor to dispose of the proceedings expeditiously, preferably within six months from the date of appearance of petitioner.

10. In view of the fact that the impugned order is

quashed and set aside, the respondents shall not take any adverse action against the petitioner only on the ground that the validation proceeding is pending.

11. Writ Petition is disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC