

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

WRIT PETITION NO. 2231 OF 2017

SANDIP DIGAMBARAO DARWESHWAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Yeramwar Sushant C.

AGP for Respondents : Smt. M.A.Deshpande

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

DATED : 16th FEBRUARY, 2017

O R D E R :

1. Heard.

2. Mr.Yeramwar, learned counsel for petitioner states that the claim of the petitioner as belonging to Chattri Scheduled Tribe was referred to the Committee. The Vigilance was conducted, however, it was represented to the petitioner that for seeking protection in service, it is not necessary to get the claim petition decided, as such erroneously the application was filed for withdrawal. In view of that, no say to the Vigilance report was filed. Other documents placed on record are not considered by the Committee while passing the impugned order. Even the Vigilance has nowhere stated that the entry

of caste Chattri in the birth extract of the father of the petitioner in the year 1948 is inserted subsequently. The learned counsel submits that the inquiry as contemplated for deciding the validation proceedings is not conducted.

3. The learned Additional Government Pleader states that the Vigilance has been conducted. The copy of the Vigilance report along with show cause notice was issued to the petitioner but the petitioner choose not to file any reply. The argument of the petitioner that the Members of the Committee impressed upon the petitioner to withdraw the proceedings is erroneous and incorrect. The birth extract of the father of the petitioner clearly shows that the entry of Chattri is inserted subsequently. The hand-writing is different of the said entry with the other hand-writing appearing on the said document.

4. We have considered the said submissions canvassed by the learned counsel for the respective parties. We have also gone through the order passed by the Committee. The Committee has invalidated the tribe claim of the petitioner only on the ground that the Committee feels that in the birth extract of the father of the petitioner of the year

1948, the entry of caste Chattri is added subsequently. The Committee has not considered the other documents filed on record nor has discussed the Vigilance report. It also nowhere has discussed about the affinity. When the proceedings are decided on merits, all these aspects are required to be considered.

5. In view of the fact that relevant aspects have not been considered by the Committee, such as the documents filed on record by the petitioner, the affinity test, the report of Vigilance, the impugned order is quashed and set aside. The matter is remitted back to the Committee. The petitioner shall appear before the Committee on 28.2.2017. The Committee may also refer the document of birth extract of the father of the petitioner of the year 1942 to the Vigilance. The Committee shall thereafter decide the proceedings on its own merits in accordance with law after hearing the petitioner expeditiously, preferably within nine (9) months from the date of appearance.

6. The Writ Petition is accordingly partly allowed. No costs.

7. Authenticated copy be given.

(K.L.WADANE, J.)

(S.V.GANGAPURWALA, J.)

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