

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

WRIT PETITION NO. 8896 OF 2017

Shaikh Nameera Abdul Hameed
U/G of her father
Abdul Hameed Abdul Majeed .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Madhur A. Golegaonkar, Advocate for the Petitioner.
Shri D. R. Kale, A.G.P. for Respondent Nos. 1 to 3.
Shri S. G. Karlekar, Advocate for the Respondent No. 5.

**CORAM : S.C.DHARMADHIKARI AND
MANGESH S. PATIL, JJ.**

DATE : 13TH JULY, 2017.

PER COURT :

. Having heard petitioner's advocate and perusing the order passed on 22.06.2017, we do not think that the petitioner could be relegated to the remedy of appeal before the Scrutiny Committee. The Competent authority/Sub Divisional Officer, Vaijapur, Dist. Aurangabad after taking on record several documents including the certificates of validity issued to the family members (other relatives from paternal side) has still refused a tribe certificate.

2. We do not think, such an elaborate enquiry as is contemplated while verifying and scrutinizing the claim

underlying such certificate is contemplated by law. This is the stage of issuance of tribe certificate and when voluminous documentary evidence has been produced that need not be verified and scrutinized elaborately and necessarily at this stage. Eventually, the tribe certificate is granted but that is subject to a condition that the claim will have to be validated by the competent Scrutiny Committee. If, at all any benefit accrues in terms of tribe certificate that is subject to such scrutiny and verification of the competent scrutiny committee that can go into such details as are now to be found in the impugned order.

2. The impugned order is completely vitiated by non application of mind and an error apparent on the face of record, we proceed to set it aside. The Tribe Certificate be now issued as expeditiously as possible and within a period of one (01) week from today.

3. In the light of our order passed in this petition, we direct the respondent No. 5 to interview the petitioner in the round of counselling/admission /on going process and if she is otherwise found eligible and meritorious. She may not be denied the seat only because presently she does not possess tribe certificate. The petitioner undertakes to produce the same as soon as it is issued and made available to the petitioner, based on that undertaking given to this Court, we direct accordingly. This order is passed in

the peculiar facts and circumstances of the present petitioner and should not be taken as a precedent for future. The writ petition is disposed of. No costs.

4. Parties to act on authenticate copy.

[MANGESH S. PATIL, J.]

[S.C.DHARMADHIKARI, J.]

bsb/July 17