

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

WRIT PETITION NO. 10063 OF 2012

Anand Dhondiba Shankhapale .. Petitioner

Versus

Scheduled Tribe Certificate Scrutiny
Committee, Aurangabad and another .. Respondents

Shri R. K. Mendakar, Advocate h/f Shri M. S. Deshmukh,
Advocate for the Petitioner.

Shri P. S. Patil, Addl.G.P. for Respondents/State.

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

DATE : 27TH JANUARY, 2017.

PER COURT :

. The Tribe claim of the petitioner is invalidated in the year 2005. The petition is filed in the year 2012.

2. The learned counsel for the petitioner states that, the copy of the vigilance report was never served upon the petitioner. Without serving the copy of vigilance report, the Scrutiny Committee relied on the vigilance report and negatived the claim of the petitioner. The learned counsel submits that, the notice of vigilance report was issued to the petitioner on 28.09.2004 and the date of hearing was fixed on 30.09.2004. The same could not

have been served upon the petitioner in such a short time. On the adjourned date of hearing the petitioner along with his father remained present, however, the petitioner was unaware of the nature of the proceedings and the manner the proceedings are undertaken. At that time also petitioner was never served with the notice of vigilance report. The petitioner be given the vigilance report and opportunity to defend the case.

3. Mr. Patil, the learned Additional Government Pleader submits that, the petitioner was throughout negligent. The notice along with vigilance report was sent to the petitioner on 28.09.2004. The date of hearing was also adjourned once as the petitioner did not remain present for hearing. On the adjourned date, the petitioner and his father were present for hearing. At that time no grievance was made by the petitioner about non receipt of vigilance report and now after a long time is raising this grievance. There are observations of fraud being played.

4. We have considered the submissions canvassed by learned counsel for respective parties.

5. In the present matter, the Committee had referred the documents to the vigilance. The vigilance was also expected to conduct the home enquiry. The vigilance has submitted its report to the Committee. From the record it appears that, the report of

vigilance was not served upon the petitioner. The petitioner appeared for the hearing. At that time the petitioner did not make grievance about non receipt of the vigilance report. The claim of the petitioner is invalidated in the year 2005. For long slumber of seven years the petitioner did not take any steps. The petitioner even did not find out the result of his proceedings. The petitioner was also negligent in prosecuting the proceedings before the Committee and thereafter assailing the order of the Committee before this Court. Considering the aforesaid facts, we are inclined to give one opportunity to the petitioner. However, the petitioner also deserves to be mulct with cost.

6. In the result, we pass following order.

7. The impugned order is quashed and set aside. The parties are relegated before the Committee on condition that the petitioner deposits cost of Rs. 15,000/- (Rs. Fifteen Thousands only) on or before 27.02.2017 before the Committee. The petitioner shall appear before the Committee on 27.02.2017. On the said date the petitioner shall be given copy of vigilance report and the petitioner may file his say/make his submissions on the merits of the matter within a reasonable time. The Committee shall decide the said proceedings expeditiously and preferably within a period of three (03) months from the date of appearance of the petitioner.

8. It is made clear that, we have not considered the merits of the contentions raised by either of the parties. Till the validation proceedings are decided, the petitioner shall not use the tribe certificate given to him for any purpose. The writ petition is disposed of.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Jan. 17