

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

WRIT PETITION NO. 9540 OF 2016

Nandlal s/o. Tukaram Patil .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Mr. Kalyan Patil h/f. Mr.S.R. Barlinge, Advocate for the petitioner.

Mr.R.P. Gour, A.G.P. for respondent/State.

**CORAM : S.V.GANGAPURWALA &
S.M.GAVHANE, JJ.**

DATED : 03.10.2017

P.C. :-

1. The petitioner assails order of the Scrutiny Committee and also order passed by the employer terminating his services.

2. Learned Counsel for the petitioner states that the tribe claim of the petitioner is invalidated by the Committee without hearing the petitioner and without issuing notice to the petitioner. For the first time, the petitioner got knowledge of the order through his employer and that too with the termination order. The same is illegal.

3. Learned Counsel relies on the order passed by

Division Bench of this Court in Writ Petition No. 7744 of 2013 dated 24.03.2014.

4. We have heard learned A.G.P.

5. The order of the Committee itself states that the judgment is passed without giving opportunity of hearing to the petitioner.

6. It is cardinal and fundamental principle of jurisprudence that when an order adverse to the interest of any party is being passed, the principles of *audi alteram partem* are required to be adhered to. In the present case, principles of natural justice are transgressed. The claim of the petitioner is invalidated without giving notice to the petitioner and without hearing the petitioner. The order of termination is issued solely on the ground that the tribe claim is invalidated.

7. Considering the above, we pass following order:-

8. The impugned order passed by the Committee invalidating the tribe claim of the petitioner is quashed and set aside and the parties are relegated to the Committee for deciding tribe claim afresh. The

petitioner shall appear before the Committee on 01.11.2017. The Committee after hearing the petitioner shall decide the same afresh on its own merit. The same shall be decided expeditiously, preferably within eight months. The impugned order of termination passed by respondent No.3 is quashed and set aside. The petitioner shall be reinstated in service within 15 (fifteen) days from today. The petitioner shall not be entitled for back wages i.e. from the period of termination till reinstatement. However, the said period shall be counted for continuity. Of course, the respondent/employer will be at liberty to take further course of action on the basis of judgment that would be delivered by the Committee.

9. The writ petition is accordingly disposed of.
No costs.

[S.M.GAVHANE, J.]

[S.V.GANGAPURWALA, J.]