

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

WRIT PETITION NO. 12007 OF 2017

Mina s/o. Ganesh Sapkale

.. Petitioner

Versus

The State of Maharashtra & Anr.

.. Respondents

Mr.N.R. Dayama, Advocate for the petitioner.

Mrs.A.V. Gondhalekar, A.G.P. for respondent/State.

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

DATED : 03.10.2017

P.C. :-

1. The tribe certificate of the petitioner is cancelled and forfeited on the ground that, the said certificate is suspicious.

2. The learned counsel for the petitioner submits that, said order is passed without notice to the petitioner and without hearing the petitioner. The order violates principles of natural justice.

3. The learned Additional Government Pleader submits that, the certificate which is cancelled and forfeited is suspicious. Even the Collector has made an enquiry and in majority of cases did not find any record of issuance of said certificate. The learned Additional

Government Pleader further submits that, the Government has constituted a Special Investigation Team (SIT) for verification of the record and about issuance of the said certificate and/or validity and the term of the said SIT is extended by six months, which would come to an end by December 2017.

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

5. It is a fact that, the order impugned is passed without hearing the petitioner and even without issuing notice to the petitioner. The cardinal and fundamental principle of natural justice requires that, if an order adverse to the interest of any party is passed the party is required to be heard. The principles of *audi alteram partem* have been transgressed.

6. In the light of the above, we pass following order.

7. The impugned order is quashed and set aside. The Scrutiny Committee shall decide about the aspect on the basis of which impugned order is passed afresh after hearing the petitioner and may consider all relevant aspects as it deems fit as per law in the matter before

taking any decision. It may also consider the record produced before it by either of the parties. It is made clear that, we have not considered merits of the matter, as the impugned order is set aside only on the ground of non adherence to principles of natural justice. The writ petition is disposed of. No costs.

[S . M . GAVHANE , J .]

[S . V . GANGAPURWALA , J .]