

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 10312 OF 2017

Nahush s/o Sanjio Dodke

... Petitioner

Vs.

The State of Maharashtra and Ors.

... Respondents

.....

- Mr. G.G. Badekar a/w. Mr. Kishor Jagdale for the Petitioner.
- Mr. A.A. Kumbhakoni, Advocate General a/w. Mr. Ashutosh Gavnekar, Special Counsel a/w. Mr. Sandeep Babar, AGP for State.

.....

**CORAM : SHANTANU S. KEMKAR &
G.S. KULKARNI, JJ.**

DATE : SEPTEMBER 27, 2017.

P.C. :

1. By filing this petition under Article 226 of the Constitution of India, the petitioner has challenged the order dated 31/08/2017 passed by the Scheduled Tribe Certificate Scrutiny Committee (for short 'the Committee') Gadchiroli Division, Nagpur Annexure "G" by which, the petitioner's claim for validation of his caste as "Mana" has been rejected.

2. According to the petitioner without providing copy of the Vigilance Officer's report which was in his favour, along with the show cause notice the Committee has passed the impugned order

disagreeing with the vigilance and affinity test report.

3. In the circumstances, according to the petitioner, the impugned order is violative of principles of natural justice as also is in complete violation of Rule 12(8) of the Maharashtra Scheduled Tribes (Regulation of Issuance and Verification of) Certificate Rules, 2003. Rule 12(8) reads thus:

“12. Procedure to be followed by Scrutiny Committee.

(8) If the Scrutiny Committee, on the basis of the Vigilance Cell report and other documents available, is not satisfied about the claim of the applicant, the Committee shall issue a show cause notice to the applicant and also serve a copy of the report of the Vigilance Officer by registered post with acknowledgement due. A copy shall also be sent to the Head of the Department concerned, if necessary. The notice shall indicate that the representation or reply, if any, should be made within fifteen days from the date of the receipt of the notice and in any case not more than thirty days from the date of receipt of the notice. In case the applicant requests for adjournment or extension of the time-limit, reasonable time, may be granted.”

4. A perusal of the aforesaid rule indicates that if the Scrutiny Committee on the basis of the Vigilance Cell report and other documents available, is not satisfied about the claim of the applicant, the Committee shall issue a show cause notice to the applicant and also serve a copy of the report of the Vigilance Officer by registered post with acknowledgement due to the applicant. The said notice shall indicate that the reply or

representation, if any, should be filed within fifteen days. Thereafter, a personal hearing is also warranted as per Rule 9(a) of the Rules of 2003.

5. Having regard to the aforesaid, it is apparent that as the report of Vigilance Officer has not been served on the petitioner there is a clear violation of Rule 12(8) of the Rules of 2003 as also the principles of natural justice.

6. In the circumstances, the impugned order is hereby set aside and the matter is remanded back to the Caste Scrutiny Committee for deciding it afresh. The petitioner be supplied a copy of the vigilance/affinity test report within one week from the date of the receipt of the authenticated copy of this order.

7. On receipt of the same, learned counsel for the petitioner submits that the petitioner shall file reply within a week as he is ready to waive to period of 15 days. He may do so.

8. Thereafter, the Committee is directed to decide the petitioner's matter afresh on or before 20/10/2017.

9. With the aforesaid direction, the petition is disposed of.

(G.S. KULKARNI, J.)

(SHANTANU S. KEMKAR, J.)