

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11627 OF 2014

Mohammed Farid Mohammed Siddiq Qureshi .. Petitioner
Vs.
The State of Maharashtra and ors. .. Respondents

Mr.S.G.Deshmukh i/b Mr.D.B.Shinde, for the Petitioner.
Mr.V.N.Sagare, AGP for Respondents No.1, 2 & 4.
Mr.N.R.Bubna, for Respondent No.3.
Mr.C.K.Bhangoji, for Respondent No.5.
Ms.Saily Pednekar h/f Mr.S.B. Shetye, for Respondent No.6.

**CORAM : B.R.GAVAI &
M.S.KARNIK, JJ.**

DATE : 22nd AUGUST, 2017

P.C. :

. Rule. Rule is made returnable forthwith. Heard by consent of parties.

2. The petitioner approached this Court being aggrieved by the order passed by respondent No.2 – Committee dated 12/12/2014 by which the claim of the petitioner of belonging to 'Qureshi OBC' has been rejected.

3. We find that the Petition deserves to be allowed on a

short ground. Perusal of the record would reveal that report of the Vigilance Cell was in favour of the petitioner. However, the respondent – Committee disagreed with the same and invalidated the claim of the petitioner.

4. Perusal of clause 11 of Rule 17 of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 (for short 'the Rules') would clearly reveal that if the Scrutiny Committee is not satisfied with the report of the Vigilance Cell regarding the claim of the candidate then the notice in form No. 25 along with the report of the Scrutiny Committee is required to be issued to the candidate. Learned Counsel for the petitioner has rightly relied upon the decision of the Division Bench of this Court in Writ Petition No.8788 of 2013 decided on 19/11/2015 which has taken a view that such notice is mandatory.

5. In that view of the matter, rule is made absolute by quashing and setting aside the impugned order.

6. The matter is remitted back to the Scrutiny Committee to follow the mandate of clause 11 of Rule 17 of the Rules and after following the procedure prescribed therein, issue fresh notice and re-hear the matter and pass orders in accordance with law after giving an opportunity of hearing to the petitioner as well as respondent No.5.

7. Rule is made absolute. No order as to costs.

(M.S.KARNIK, J.)

(B.R.GAVAI, J.)