

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

WRIT PETITION NO. 2146 OF 2018

Anjali Ganesh Korewad

Age: 19 years, Occ.: Education,

R/o. 'Venkatesh', Plot No. B 62,

Mamta Colony, Near Venkatesh Temple,

Dist. Nanded

.. Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
Tribal Development Department
Mantralaya, Mumbai
2. The Scheduled Tribe Caste Certificate
Verification Committee Aurangabad,
Through its Dy. Director (R), Aurangabad .. Respondents

Shri. Sunil M. Vibhute, Advocate for the Petitioner.

Smt. A.V. Gondhalekar, Addl.G.P. for Respondents.

**CORAM : S.V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATED : 22nd February, 2018

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. Rule. Rule made returnable forthwith. With consent of the parties taken up for final hearing.

2. The learned Additional Government Pleader waives notice of rule for all respondents.

3. Mr. Vibhute, the learned counsel for the petitioner submits that the tribe claim of the petitioner is invalidated without affording opportunity of hearing to the petitioner. The notice was issued to the petitioner for hearing on 27.08.2017. The said notice was served upon the mother of the petitioner on 29.08.2017 in the evening and the date was fixed on 30.08.2017. The father of the petitioner is working at Gangakhed. The petitioner and his father appeared before the committee on 01.09.2017 and on that date the members of the committee intimated them that matter was already closed for order and on 01.09.2017 the order is passed by the committee invalidating the tribe claim. No opportunity was given to file say to the vigilance report, nor the petitioner was heard.

4. The learned Additional Government Pleader states that in view of the judgment of the Supreme Court, the committee had to decide the

proceeding within 15 days. It was for the petitioner to be diligent and appear before the committee. The Committee has passed speaking order considering all the documents on record, so also the vigilance report.

5. We have considered the submission.

6. The tribe claim of the petitioner is required to be decided after affording opportunity to the petitioner to file say to the vigilance report and considering the affinity test. So also after hearing the party. It would appear that the notice was served on the petitioner's mother on 29.08.2017 in the evening and the date of hearing was kept on 30.08.2017 at Aurangabad. It would not be possible for a litigant to appear on 30.08.2017 for hearing after having served notice on 29.08.2017 in the evening.

7. Even order does not show that the petitioner was heard or was given opportunity to file say to the vigilance report.

8. Considering the fact that the impugned order is passed to without hearing the petitioner, we are inclined to grant one more opportunity to the petitioner.

9. In light of the above, we pass the following order.
10. The impugned judgment and order is quashed and set aside. The petitioner is relegated before the committee. The petitioner shall appear before the committee on 08.03.2018. On the said date the petitioner shall file his say to the vigilance report. The committee shall thereafter, hear the petitioner and decide the validation proceeding in respect of the tribe claim of the petitioner expeditiously and preferably by end of May-2018. The petitioner shall cooperate in expeditious disposal of the proceeding.
11. Rule is accordingly made absolute in above terms. No costs.

[A. M. DHAVALÉ, J.]

[S. V. GANGAPURWALA, J.]

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