

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15112 OF 2017

Ankita Arun Kape

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri Pratap V. Jadhavar, Advocate for the Petitioner.

Shri S. G. Karlekar, A.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 15th February, 2018

PER COURT :

1. Mr. Jadhavar, learned Advocate for the Petitioner submits that without giving proper opportunity to the petitioner, the committee invalidated the tribe claim of the petitioner as 'Koli Mahadev', Scheduled Tribe. According to the learned Advocate, the notice was issued to the petitioner on 28th August, 2017 to remain present on 30th August, 2017. The petitioner's father remain present on 1st September, 2017. On the said date, the report of vigilance was given but no proper opportunity was given. Even opportunity to file say to the vigilance report was not given to the petitioner and the order is passed.

2. Mr. Karlekar, learned A.G.P. submits that there is

interpolation in the documents. The petitioner and his father could not even prove the affinity test. Considering all these aspects, the detailed judgment has been given by the committee. Even the petitioner and his father were heard.

3. We have considered the submission.

4. Paragraph No. 6 of the impugned judgment states that the notice was issued to the petitioner on 28th August, 2017, directing him to remain present on 30th August, 2017. The petitioner's father remain present on 1st September, 2017. On the said date, the report of vigilance was given and the judgment is delivered on 2nd September, 2017. It appears that, opportunity has not been given to the petitioner to file say to the Vigilance Report. The said opportunity was required to be given to the petitioner.

5. Considering the above, the impugned order is quashed and set aside. The petitioner is relegated before the committee. The petitioner shall appear before the committee on 1st March, 2018. The petitioner shall file say to the Vigilance Report on the said date and the committee shall thereafter decide the tribe claim of the petitioner afresh, on its own merits, in accordance with law, expeditiously and preferably before the end of May – 2018.

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

[A. M. DHAVAL, J.]
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[S. V. GANGAPURWALA, J.]