

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7536 OF 2018

Swapnil Bharatbhushan Gahire

...Petitioner

vs.

State of Maharashtra and Others

...Respondents

Mr. Sunil Vibhute, for the Petitioner

Mr. A.A. Kumbhakoni, Advocate General a/w. Mr. M.M. Pabale,
AGP, for Respondents-State.

Mr. Benbalge Vijaykumar a/w. Mr. Shriniwas Solunke, Law Officer
present.

**CORAM : SHANTANU KEMKAR &
N. W. SAMBRE, JJ.**

DATE : JULY 25, 2018

P.C.:

. Parties through their counsel.

2. The Petitioner claiming to be belonging to '*Koli-Mahadev Scheduled Tribe*' is questioning the order passed by Respondent No.2 Committee whereby his Tribe claim as belonging to '*Koli-Mahadev Scheduled Tribe*' came to be negated by the impugned order dated 10th July, 2018.

3. The Petitioner, in response to the Vigilance Cell report dated 5th July, 2018 was called upon to tender his explanation pursuant to the provisions of Sub-rule (8) of Rule 12 of Maharashtra Scheduled Tribes (Regulation of Issuance and

Verification of) Certificate Rules, 2003 ['the Rules' for short]. The Petitioner has informed to Respondent No. 2 Committee that he is not interested in taking admission for the year 2017-18 and has not appeared to NEET entrance examination.

4. In the aforesaid background, the claim put forth by the Petitioner is required to be appreciated particularly, when he has claimed that Yadav Haribhau Unde and Trupti Ganpat Gondke, his relatives were granted caste validity certificate by the Caste Scrutiny Committee of '*Koli-Mahadev Scheduled Tribe*' vide certificates on 22nd November, 2006 and 19th July, 2006 respectively.

5. The Vigilance Cell report was duly served on the Petitioner vide communication dated 5th July, 2018 and he was called upon to submit his explanation by 6th July, 2018. According to him, there is denial of reasonable opportunity of being heard for the reason, the time prescribed pursuant to the sub-rule (8) of Rule 12 of the Rules is not complied and adhered to.

6. Without going into the merits of the matter, it needs to be observed that the claim of the Petitioner came to be decided on 10th July, 2018 while the Vigilance Cell report was served vide communication dated 5th July, 2018 and on 6th July, 2018 the

Petitioner sought time to submit his explanation to the Vigilance Cell report. It appears that in the aforesaid background, the Petitioner was unable to submit explanation and the Committee proceeded to pass an order by acting contrary to the provisions of Rules 12(8). That being so, in our opinion, the impugned order, since passed without granting fair opportunity to the Petitioner to submit his explanation to the Vigilance Cell report, is not sustainable. The impugned order dated 10th July, 2018 as such is quashed and set aside.

7. The Petitioner shall file his explanation to the Vigilance Cell report by 29th September, 2018. The Committee shall thereafter decide the caste claim of the Petitioner by 31st December, 2018.

8. The Petition stands partly allowed in the above terms.

(N.W. SAMBRE, J.)

(SHANTANU KEMKAR, J.)