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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7540 OF 2018

Komal d/o. Narsingh Battalwad

..Petitioner.

V/s.

Director of Medical Education & Research,
Maharashtra State & Ors.

..Respondents.

Mr.M.S.Deshmukh for the petitioner.

Mr.A.A.Kumbhakoni, Advocate General with Mr.Bhupesh Samant,
AGP for the respondents-State.

***CORAM: SHANTANU KEMKAR AND
NITIN W.SAMBRE, JJ.***

DATE : JULY 23 , 2018

P.C.:-

The petitioner claiming to be belonging to 'Mannervarlu Schedule Tribe' is questioning the order passed by respondent No.2 Committee whereby her Tribe claim as belonging to 'Mannervarlu Schedule Tribe' came to be negated by the impugned order dated August 31, 2017.

2. The petitioner, in response to the Vigilance Cell report dated August 24, 2017 was called upon to tender her 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 she is not interested in taking admission for the year 2017-18 and has not appeared to NEET entrance examination.

3. In the aforesaid background, the claim put forth by the petitioner is required to be appreciated particularly, when she has claimed that Apparao Mahajan Battalwad, her cousin grand-father was granted caste validity certificate by the Caste Scrutiny Committee of '*Mannervarlu Schedule Tribe*' vide certificate dated January 11, 2010.

4. The Vigilance Cell report was duly served on the petitioner vide communication dated August 24, 2018 and she was called upon to submit her explanation by August 29, 2018. According to her, 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.

5. Without going into the merits of the matter, it needs to

be observed that the claim of the petitioner came to be decided on August 31, 2017 while the Vigilance Cell report was served vide communication dated August 24, 2017 and on August 29, 2017 the petitioner sought time to submit her 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 her explanation to the Vigilance Cell report, is not sustainable. The impugned order dated August 31, 2017 as such is quashed and set aside.

6. The petitioner shall file her explanation to the Vigilance Cell report by September 29, 2018, as prayed. The Committee shall thereafter decide the caste claim of the petitioner by December 31, 2018.

7. The petition stands partly allowed in the above terms.

(NITIN W.SAMBRE, J.)

(SHANTANU KEMKAR, J.)