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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10641 OF 2012**

Rachana Sanjay Salunke ..Petitioner
Vs.
State of Maharashtra & ors. ..Respondents

.....
Ms. Priyanka Shaw I/b. Mr. R.K. Mendadkar for petitioner.
Mr. S.B. Kalel, AGP for State.
Ms. Shital Mane for MCGM.

.....
**CORAM : S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.**

DATE : 7th FEBRUARY, 2019

P.C. :

This Petition challenges an order passed on 27th November, 2009.

2. On 6th November, 2012, this Court passed the following order :

“P.C.

1. On praecipe, ordered to be listed today under caption 'production'.
2. Matter is stated to be heard on 14th December, 2012. Petitioner apprehends that his service may be terminated because of the invalidation of his Caste Certificate. The petitioner is in service for last fifteen years as stated across the Bar.
3. In the circumstances, status-quo as of today be maintained with regard to the subject matter until the returnable date i.e. 14th December, 2012.”

3. The Scrutiny Committee has invalidated the claim of the petitioner by the impugned order.

4. The claim was laid as the petitioner was issued a caste certificate by the competent authority. On the strength of this caste certificate, the petitioner claimed that she belongs to Mahadeo Koli, Scheduled Tribe. The petitioner was born as Harshala Jayram Bhoir. Her parents Jayram Balram Bhoir and Shalini Jayram Bhoir have expired. The petitioner relied upon this caste certificate and was appointed in a Primary School of the Municipal Corporation of Greater Mumbai, on 7th July, 1997. She joined the school and was called upon to deposit her original caste certificate which also she did. When this caste certificate was forwarded by her, she was not aware that the Scrutiny Committee had already passed the impugned order invalidating her claim. It is only when a charge-sheet was served on her, Inquiry Officer was appointed to inquire into the allegation that the petitioner secured appointment to a reserved seat having no proof of belonging to Schedule Tribe and on that

ground her services were sought to be terminated, that the petitioner became aware of the impugned order.

5. The only contention raised before us is that the petitioner was not given a prior opportunity of being heard by the Scrutiny Committee before cancelling or confiscating her caste certificate. The petitioner has specifically, in ground (b) at page 9, alleged that she did not receive any intimation from the Committee with regard to the hearing held on 7th October, 2008, and thereafter on 28th April, 2009, 29th May, 2009, 12th August, 2009 and 24th September, 2009.

6. It is on such specific allegation that the record was called for from the office of the concerned Scrutiny Committee. A perusal of the original record leaves us in no manner of doubt that the petitioner was not served with the notices of hearing and therefore, the impugned order is ex-parte. It being a ex-parte order, the principles of natural justice have been violated. The petitioner has proved the prejudice caused to her on

the basis of the impugned order. Her services were sought to be terminated. It is the protection granted by this Court which enabled the petitioner to render the services.

7. As a result of the above discussion, we allow this Writ Petition. We quash and set aside the impugned order. We direct the Scrutiny Committee to re-scrutinize and reverify the claim of the petitioner. Let that be done as expeditiously as possible and within a period of six months from today.

8. The Committee shall give prior notice of every hearing to the petitioner. The notice should be given by Speed Post. The petitioner should also intimate the details of her residential address and her contact numbers, including her mobile number. The Scrutiny Committee shall also communicate the dates, in addition to such written notice, by oral intimation. In the event the Committee finds that the petitioner is avoiding to attend the proceedings, it is free to proceed ex-parte.

9. Let the petitioner appear before the Committee on 18th February, 2019, at 11.00 a.m., so as to complete the preliminary steps and formalities.

10. We clarify that we have not expressed any opinion on the claim.

11. The Writ Petition is disposed of with these directions.

12. The original file be returned to Shri Kalel, learned AGP.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)