

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.2210/2020

Ankit s/o Raju Kedare
Aged – 19 years,
Occupation – Student,
R/o Anwarpura, Achalpur City,
Taluka – Achalpur,
Dist – Amravati – 444 806.

.... **PETITIONER**

// VERSUS //

The Scheduled Tribes Caste Certificate
Scrutiny Committee – through it's
Principal Secretary and Deputy Director,
Sanna Building Opp. Govt. Rest House,
Chaprashipura, Amravati.

.... **RESPONDENT**

Shri Ashwin Deshpande, counsel for the petitioner.
Shri N. R. Pati, AGP for the respondent.

**CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED : 16/12/2020

ORAL JUDGMENT : (Per : SUNIL B. SHUKRE, J.)

1. Heard. **Rule.** Rule made returnable forthwith.

2. Heard finally by consent of the learned counsel appearing for the parties.

3. The legality and correctness of the order dated 6/7/2020 passed by the respondent Scrutiny Committee is under challenge in the present petition. It is the contention of the learned counsel for the petitioner that, no effective opportunity of hearing and proving the claim has been given to the petitioner by the respondent – Scrutiny Committee. In particular, it is submitted that the except for the documents as mentioned in the show cause notice dated 6/8/2019, several documents, which have been relied upon by the Scrutiny Committee depicting the caste claim of the petitioner have not been supplied to the petitioner. It is also submitted that there have been more than one family tree available before the Committee and no appropriate consideration of the authentic family tree has been made by the Scrutiny Committee.

4. Shri Patil, learned AGP points out to us from the contents of the show cause notice dated 6/8/2019 itself that all the 16 documents referred to in the impugned order have been furnished to the petitioner and the petitioner, in his reply to the show cause notice has also not disputed this fact. He also submits that since there were

contradictory entries even in the pre-Constitution documents, the Scrutiny Committee was required to adopt additional methods for verifying the correctness or otherwise of the caste claim of the petitioner and after undertaking such an exercise, the Scrutiny Committee has reached a proper conclusion in the matter, which now cannot be assailed by the petitioner.

5. It is fact that in the show cause notice, there is a specific mention about furnishing of the copies of all the 16 documents, which have been referred to in the order of the Scrutiny Committee. However, reading the show cause notice further, it appears that the explanation of the petitioner has been sought only in respect of the documents, specifically mentioned in the show cause notice. It is also true that the statement made in the show cause notice regarding furnishing of the copies of the documents to the petitioner has not been specifically denied by the petitioner. But, when explanation of the petitioner has been sought in the show cause notice only in respect of the four documents particularly mentioned therein, it is quite likely that some confusion may arise in the mind of a student, like the petitioner, as to exactly to which document he is supposed to give his response. After all, petitioner is a student and is not a practitioner of law and therefore, it is quite likely that he may have been misled by

such mentioning of specific documents in the notice in respect of which his explanation was sought. In these circumstances, we are of the view that further opportunity is required to be given to the petitioner to give his explanation in respect of each of the documents so that, the opportunity of hearing, that is required in law to be given to a petitioner assumes its real character. Opportunity of hearing has to be meaningful and not for just name sake. After all, it cannot be forgotten that any decision that will be taken in such a matter is life changing and therefore, the authority in whom the power is vested to take decision must take care that the claimants of particular social status are afforded appropriate, effective and meaningful opportunities of hearing.

6. In view of above, we find that the impugned order cannot stand the Scrutiny of law.

7. The petition is allowed. Impugned order is hereby quashed and set aside. The claim is remanded to the Scrutiny Committee for its decision in accordance with law. The Scrutiny Committee shall expeditiously decide finally the claim, in accordance with law, within a period of three months from the date of appearance of petitioner. The petitioner is directed to appear before the Scrutiny Committee on 4th

January 2021 at 11.00 a.m. We also direct the Committee to furnish all copies of the relevant documents to the petitioner with liberty to the petitioner to file additional documents including family tree, if any.

Rule is made absolute in above terms. No costs.

(AVINASH G. GHAROTE, J)

(SUNIL B. SHUKRE J.)

Sarkate