

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

WRIT PETITION NO.6281 OF 2018

Mohammad Uzair Mohammad Zubair, Mominpura, Akola

-VS-

District Caste Scrutiny Committee, Akola, Thr. Its Secretary and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri P. S. Gawai, Advocate for petitioner.

Smt S. Jachak, Assistant Government Pleader for respondent No.1

CORAM : A. S. CHANDURKAR AND G. A. SANAP, JJ.

DATE : December 16, 2021

P. C.

Rule. Rule made returnable forthwith and heard the counsel for the parties.

The challenge raised in this writ petition is to the order passed by the Scrutiny Committee dated 28/05/2018 thereby rejecting the caste verification claim of the petitioner of belonging to Momin (OBC). Inter alia, it is submitted by the learned counsel for the petitioner by relying upon the judgment dated 16/07/2018 in Writ Petition No.3644/2018 (*Nilesh S/o Vishwas Thorat vs District Caste Certificate Scrutiny Committee, Akola and anr. with connected matters*) that for want of service of notice in Form-25 as required by Rule 17(11) of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 (for short, the said Rules), the order passed by the Scrutiny Committee is vitiated. Our attention is invited to the notice dated 09/05/2018 which is at

record page 51 as issued by the Research Officer of the Scrutiny Committee. It is urged that it is a simple notice along with copy of Vigilance Cell report and the same does not refer to any adverse finding recorded by the Scrutiny Committee on the basis of the report of the Vigilance Cell.

The learned Assistant Government Pleader has supported the impugned order by submitting that since the report of Vigilance Cell was supplied to the petitioner, he was aware of the contents thereof.

2. Perusal of the decision in *Nilesh V. Thorat* (supra) and especially paragraph 6 and 7 therein indicates that it has been held by the Division Bench that any adverse finding recorded by the Scrutiny Committee based on the report of the Vigilance Cell is required to be informed to the applicant as the burden thereafter shifts on the applicant for proving his caste-claim. In those cases, proceedings were remanded for fresh adjudication for failure to supply the report of Vigilance Cell along with notice in Form-25.

3. We find that the aforesaid decision supports the contention of the petitioner. Hence for aforesaid reasons, the following order is passed :

- (i) The order passed by the Scrutiny Committee on 28/05/2018 is set aside for failure to comply with the requirement of Rule 17(11) of the said Rules read with Form-25.
- (ii) The petitioner shall appear before the Scrutiny Committee on 28/12/2021 on which date the Scrutiny

Committee through its office shall serve notice in Form-25 along with the Vigilance Cell report on the petitioner. The proceedings be continued from that stage onwards.

- (iii) The Scrutiny Committee shall adjudicate the claim of the petitioner in accordance with law preferably within a period of four months from the said date of appearance.
- (iv) It is made clear that this Court has not examined the merits of the order that was passed by the Scrutiny Committee and all questions are kept open.

Rule is made absolute in aforesaid terms with no order as to costs.

(G. A. Sanap, J.)

(A. S. Chandurkar, J.)

Asmita