

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

920 WRIT PETITION NO.1761 OF 2022

GAURAV FULCHAND NIKAM
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
ANOTHER

Mr.S.C.Yeramwar, Advocate for the petitioner.
Mr.S.G.Sangle, AGP for respondent Nos. 1 and 2.

(CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.)

DATE : DECEMBER 01, 2022

PER COURT :

1. The petitioners claim of belonging to 'Thakar - Scheduled Tribe' has been invalidated by the impugned order dated 15.12.2021 received by the petitioner in the first week of January 2022.

2. We have considered the submissions of the learned Advocates for the respective sides. By order dated 08.02.2022, this Court had protected the petitioner against criminal investigation/action in the light of the invalidation. Considering the submissions advanced before us and keeping in view the order that we are passing today, it would be appropriate for us to refrain from advertng to the merits of the claim of

the petitioner.

3. The petitioner is a 20 year old student. In 2021, he was 19 years of age. His father was murdered on 25.09.2021. An FIR bearing Crime No.347/2021 has been registered with Police Station Kallamb, Dist.Osmanabad. He received 4 notices for hearing from the competent committee after the submission of the Vigilance Cell Inquiry, viz. 11.11.2021, 18.11.2021, 25.11.2021 and 08.12.2021. It is canvassed that considering the tragic incident in the family and emotional upheaval suffered by the family, the petitioner had become traumatic. He, therefore, could not attend the hearing. Two notices received from the Committee, were received by him after the date of hearing had lapsed. On 26.11.2021, he had addressed an e-mail to the Committee indicating that he was unable to attend the hearing dated 25.11.2021.

4. We can perceive the grief that the family of the petitioner had suffered on account of the tragic unnatural death of his father. Naturally, the family members must have been affected on account of the sudden and shocking demise of his father. In these circumstances, we deem it appropriate to adopt a pragmatic approach rather taking a

pedantic view. One opportunity of hearing deserves to be granted to the petitioner, who has surely recovered from the shock by now. The petitioner has also lost his mother 3 years prior to the death of his father. In such circumstances, though he appeared for the NEET-UG-2021 examination, he did not opt for any admission.

5. In these circumstances, this petition is partly allowed only on account of the factors recorded as above. The impugned report of the Committee dated 15.12.2021 is quashed and set aside and the Proceeding No. 4/525/Edu/122019/157525 stands remitted, independent of any other proceeding mentioned in the common order, to the office of respondent No.2 / Committee at Aurangabad. The petitioner would appear before the Committee on 08.12.2022 at 12.00 noon. The petitioner shall tender his written submissions on the said date. Thereafter, the Committee would close the matter and deliver a judgment on 30.01.2023 at 12.00 noon. The petitioner would appear on the said date to note the pronouncement of the judgment and collect a copy thereof.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)