

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) NO. 5225/2021

Pravin S/o Rukhmaji Nandanwar,
Aged 51 years, Occ: Service,
R/o Bhadre Layout, Plot No.5,
Vitthalwadi Road, Yavatmal,
District: Yavatmal.

..... PETITIONER

// VERSUS //

1. The Scheduled Tribe Certificate
Scrutiny Committee, Amravati,
Through its Member Secretary.

2. The Executive Engineer,
Special Project,
Public Works Department,
Yavatmal, District: Yavatmal.

.... RESPONDENT(S)

Shri R.L. Khapre, Senior Advocate with Shri K.S. Narwade, Advocate for
the petitioner
Shri Neeraj Patil, Assistant Government Pleader for the
respondents/State

CORAM : A.S. CHANDURKAR AND SMT. M.S. JAWALKAR, J.J.

DATED : 30/03/2022

ORAL JUDGMENT : (PER:- A. S. CHANDURKAR, J.)

Rule. Rule made returnable forthwith. Heard the learned
counsel for the parties. The learned Assistant Government Pleader
waives service of notice on behalf of the respondents.

2 The order passed by Scheduled Tribe Certificate Scrutiny Committee, Amravati dated 02.03.2021 invalidating the tribe claim of the petitioner of belonging to “Halbi” Scheduled Tribe is under challenge. *Inter alia*, it is submitted by Shri R.L. Khapre, learned Senior Advocate for the petitioner that the Scrutiny Committee took into consideration various documents without putting the petitioner to notice and by relying upon those documents the tribe claim of the petitioner has been invalidated. It is submitted that documents at serial nos. 15 to 28 as referred to in the impugned order dated 02.03.2021 were collected by the Scrutiny Committee as observed in paragraph 7(a) of the impugned order and the same were relied upon against the petitioner. It is submitted that if the petitioner would have got an opportunity to counter those documents, same could have been explained by him. On this count, it is submitted that the proceedings require reconsideration after granting opportunity to the petitioner.

3. Shri Neeraj Patil, learned Assistant Government Pleader for the respondents supported the impugned order. According to him, since the petitioner’s close relatives were issued those documents and the same were considered by the Scrutiny Committee no prejudice was caused to the petitioner. The petitioner had failed to prove his tribe claim and hence impugned order was rightly passed.

4. We have heard the learned Counsel for the parties. We have perused the documents on record. The impugned order in paragraph 7(a) states that the documents at serial nos. 15 to 18 and 20 to 27 were not disclosed by the petitioner while seeking validity. The same were called by the Scrutiny Committee and they were considered while adjudicating the petitioner's claim. The petitioner was not put to notice that those documents would be considered by the Scrutiny Committee. We find that such course followed by the Scrutiny Committee was not permissible. After obtaining those documents, the Scrutiny Committee ought to have granted an opportunity to the petitioner to explain the same and thereafter ought to have taken them into consideration. Reference to those documents has been made for the first time came in the impugned order. The petitioner has thus been taken by surprise. Hence on this short ground the order passed by the Scrutiny Committee is liable to be set aside and the proceedings are required to be re-adjudicated in accordance with law. In view of the aforesaid, following order is passed:-

(i) The writ petition is allowed. The order dated 02.03.2021 passed by Scheduled Tribe Certificate Scrutiny Committee, Amravati is set aside. The proceedings are remanded for fresh consideration of the petitioner's claim in

accordance with law.

(ii) The petitioner shall appear before the Scrutiny Committee on **11.04.2022** to facilitate the process of adjudication. The claim of the petitioner be decided within a period of four months from 11.04.2022 on its own merits and in accordance with law. In case, the Scrutiny Committee desires to rely upon any fresh documentary material same shall be served on the petitioner so as to seek his explanation in that regard.

(iii) As a consequence of setting aside of order dated 02.03.2021 the services of the petitioner shall remain protected subject to fresh adjudication by the Scrutiny Committee and the order dated 01.10.2021 as issued by the respondent no. 2 shall cease to operate.

(iv) All points raised on merits are kept open.

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

6. Civil Application (CAW) No. 698/2022 is also disposed of.

(SMT. M.S.JAWALKAR, J.)

(A.S.CHANDURKAR, J.)