

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

938 WRIT PETITION NO. 8904 OF 2023

SURESH NARAYAN SHIRSATH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Barlinge Sudhir Raghunath
AGP for Respondents : Mr. S.G. Sangale
...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 25 JULY 2023

PER COURT :

Heard learned Advocate for the petitioner and the learned AGP. At the joint request, the matter is heard finally at the stage of admission.

2. The petitioner's tribe claim as belonging to 'Tokre Koli' scheduled tribe has been rejected by the impugned order passed by the respondent no. 2 – Scrutiny Committee, in a proceeding under Section 7 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes, (Vimukta Jatis) Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and verification of) Caste Certificate Act, 2000.

3. During the course of arguments, it transpires that though the vigilance report was received by the petitioner, he failed to respond to it and thereafter, even did not participate in the enquiry and the Committee was left with no choice but to proceed in his absence and

accordingly, by the impugned order the proposal has been turned down.

4. It is to be borne in mind that the enquiry before the respondent no. 2 – Scrutiny Committee, though is a quasi judicial enquiry is not an adversarial litigation. A person claiming to belonging to scheduled caste or scheduled tribe has to satisfy the Committee for validity of his caste or tribe certificate. His participation in the enquiry, therefore, is imperative. The petitioner seems to be remiss. However, it cannot be a ground to deprive him of going before the Scrutiny Committee and making another attempt given an opportunity.

5. It would always be better and in the interest of justice that such proposals are decided after extending an opportunity of being heard.

6. By way of indulgence, we allow the Writ Petition, quash and set aside the order and remand the matter back to the respondent no. 2 – Scrutiny Committee for decision afresh in accordance with law by extending opportunity to the petitioner to file a reply to the vigilance report and then to participate in the enquiry.

7. The petitioner shall appear before the Committee on 07 August 2023 and shall file his reply to the vigilance report within a week thereafter. The petitioner shall co-operate the Scrutiny Committee in early decision and the Committee shall be obliged to decide it

expeditiously and in any case within six months from the date of appearance of the petitioner.

8. No adverse action shall be initiated against the petitioner for a period of six months or till the Committee decides the matter, whichever is earlier.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

spc/