

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

WRIT PETITION NO.2477 OF 2021

Smt. Tara D/o Ramrao Sonparote @ Tara : **PETITIONER**
W/o Ravikar Hunge,
aged about 59 years, Occupation – Service,
R/o Shivaji Nagar, Bangaon, Taluka –
Amgaon, Dist. Gondia

VERSUS

- 1 The Scheduled Tribes Caste Certificate :
Scrutiny Committee, - through it's
Member Secretary and Deputy Director,
Sanna Building, Opp. Govt. Rest House
Camp, Amravati - 444601
- 2 The Principal,
Bhawabhuti Mahavidyalaya, Amgaon,
Tq. and District – Gondia
- 3 The Secretary,
Bhawabhuti Mahavidyalaya, Amgaon,
Tq. and District – Gondia
- 4 The Joint Director, Higher Education,
Nagpur

RESPONDENTS

Mr. Ashwin Deshpande, Advocate for petitioner
Mr. A.A. Madiwale, AGP for respondent Nos.1 & 4
Mr. Nikhil Alekar, Adv. h/f Mr. Anand Parchure, Advocate for
Respondent Nos.2 and 3

**CORAM: SUNIL B. SHUKRE AND
MRS. VRUSHALI V. JOSHI, JJ.**

DATE : 17th FEBRUARY, 2023

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

Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

2. The learned Assistant Government Pleader has produced before us original record of the proceedings before the Scrutiny Committee initiated with regard to the claim of the petitioner that she belongs to Halba Scheduled Tribe category. We have gone through it. However, what is more important is absence of adequate opportunity of hearing having been granted to the petitioner before the impugned order was passed by the Scrutiny Committee.

3. It is the contention of the learned counsel for the petitioner that the Scrutiny Committee had considered some documents, which were in fact, pre-constitutional, but, in respect of those documents, no opportunity was accorded to the petitioner to submit nor say and this fact could be seen from the Vigilance Report, which does not make any reference to the documents at Sr. Nos.2,4,5, 6 and 8 and there are also other contentions which the petitioner wanted to raise before the Scrutiny Committee, but, she could not do so, for want of any opportunity having been granted to her. The detailed discussion in this regard is already made in the order dated 16th July, 2021, when this Court granted interim relief to the petitioner. The observations made by us in our order dated 16th July, 2021, would be deemed to be incorporated in this order.

4. In view of the above, this is a fit case for quashing of the impugned order, which suffers from perversity resulting from consideration of some irrelevant facts and denial of opportunity of hearing.

5. The learned counsel for the petitioner prays for grant of provisional pension to the petitioner for the reason that the petitioner has strong case on merits and during pendency of this petition, the petitioner has superannuated from service, but, has not been granted any pensionary benefits. However, we leave this aspect of the matter to the employer i.e. respondent Nos.2 and 3 to consider and take appropriate decision in view of the fact that the impugned order invalidating tribe certificate of the petitioner now has been quashed and set aside by this Court.

6. In these circumstances, the petition is allowed and the impugned order is hereby quashed and set aside and the matter is remanded back to the respondent No.1 – Scrutiny Committee for fresh consideration and decision in accordance with law, after giving due opportunity of hearing to the petitioner. The petitioner shall have liberty to place on record additional documents, if any.

7. The petitioner is directed to appear before the respondent No.1 on 23rd February, 2023.

8. The respondent No.1 is directed to take a decision afresh in the matter in accordance with law as expeditiously as possible and preferably within 8 weeks from the date of appearance of the petitioner before it and the Scrutiny Committee is directed to supply the copies of the documents containing adverse entries, if any, which are proposed to be relied upon by the Scrutiny Committee.

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

(MRS. VRUSHALI V. JOSHI, J.)

(SUNIL B. SHUKRE, J.)