

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

WRIT PETITION NO. 5014 OF 2021

Ku. Snehankita Rajendra Thakur,
Aged 20 years, Occ.: Student,
R/o. Shantabai, Yadav Nagar,
Majimai Hospital, Chandur Railway,
Tahsil : Chandur Railway,
District : Amravati.

.... **PETITIONER**

---- **VERSUS** ----

- 1) Schedule Tribe Certificate Scrutiny
Committee, Amravati, Dist.: Amravati,
Through its Vice President.
- 2) Sharadchandraji Pawar Homeopathic
Medical College and Hospital at
Vadala Mahadeo, Shrirampur - Newasa
Road, Tq. Shrirampur, Dist. Ahamednagar,
Through its Principal.
- 3) Maharashtra University of Health Science
Nashik, Dindori Road, Mhasrul,
Nashik – 422004.
Through its Registrar.

.... **RESPONDENTS**

Mr. N. S. Warulkar, Advocate for Petitioner.
Ms N. P. Mehta, Assistant Government Pleader for Respondent No.1/State.
Mr. Abhijit Deshpande, Advocate for Respondent No.3.

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

DATED : **06.02.2023**

ORAL JUDGMENT : (Per Sunil B. Shukre, J.)

1. Heard.

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

3. The Scrutiny Committee has accepted the Vigilance Cell Report, which is adverse to the tribe claim of the petitioner. But, as submitted by the learned Counsel for the petitioner, there is a doubt about the exact date of preparation of the Vigilance Cell Report and also the time when the copy of the Vigilance Cell Report was made available to the petitioner. According to the Scrutiny Committee, Vigilance Cell Report was sent to the petitioner along with the notice dated 28.06.2018 and this date being the one, which was subsequent to the date of the Vigilance Cell Report, which is 25.06.2018. Apparently, the date on which Vigilance Cell Report was sent to the petitioner would seem to be quite natural. But, the impression so gathered about the date of the Vigilance Cell Report falls into arena of doubt and suspicion the moment we consider one document which is summons dated 19.06.2018 issued to the father of the petitioner, which is at page 39. It says that the father of the petitioner would be required to remain present before the Vigilance Cell at 11.00 a.m. of 28.06.2018. But, as per the record of the Scrutiny Committee, which we have just now perused, by that time Vigilance Cell Report had already been issued. If this is so, it is quite confusing that the father of the petitioner should have been again summoned by the Vigilance Cell to remain present before it on 28.06.2018. This is what brings in

suspicion about the issuance of the Vigilance Cell Report and furnishing its copy to the father of the petitioner or the petitioner and this suspicion vitiates the impugned order.

4. In these circumstances, the petition deserves to be allowed and it is allowed. The impugned order is hereby quashed and set aside. The matter is remanded back to the Scrutiny Committee for fresh consideration of the tribe claim of the petitioner from the stage of Rule 17 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, which reads as under :

“17. Procedure of Scrutiny Committee - (1) On receipt of application, the Scrutiny Committee shall ensure that the application and the information supplied therewith is complete in all respects and to carry out scrutiny of the application.

(2) Notwithstanding anything contained in these rules, the claimant or applicant or complainant shall be personally responsible for removal of objections raised by Scrutiny Committee, if any, within two weeks or within such extended period, which shall not be more than six weeks, failing which the claim or application or complaint shall be disposed of, by appreciating available records and such decision may be communicated to the applicant by the Scrutiny Committee.

(3) The incomplete application may be rejected by recording reasons.

(4) Notwithstanding anything contained in these rules, it will be the sole responsibility of the claimant or applicant

to attend the dates of hearing, either personally or through duly authorised representative.

(5) The Roznama of the Scrutiny committee shall be self evident as to what transpired on a particular day and it shall be signed by all the members of the Scrutiny Committee.

(6) If the Scrutiny Committee, upon appreciating the statement of applicant or claimant submitted in the form of Affidavit filed in consonance with Order 18 Rule 4 of the Code of Civil Procedure, 1908, as well as other evidence and documents furnished along with any application or proposal is satisfied, about the genuineness of Scheduled Caste, Scheduled Caste converts to Buddhism or De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category claim the Scrutiny Committee shall forthwith issue Validity Certificate in FORM-20 without enquiry by vigilance cell.

(7) If Scrutiny Committee, upon appreciating the statement of applicant or claimant submitted in the form of Affidavit filed in consonance with Order 18 Rule 4 of the Code of Civil Procedure, 1908, as well as other evidence and documents furnished along with any application or proposal, is of the opinion that the documents do not satisfy or conclusively prove the Scheduled Caste, Scheduled Caste converts to Buddhism, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category claim, the Scrutiny Committee by mentioning the same in the Roznama, shall refer such case to the Vigilance Cell for carrying out suitable inquiry, as is deemed fit, by Scrutiny Committee.

Provided that, finding recorded by the Vigilance Cell shall not be binding on Scrutiny Committee, as the vigilance inquiry is meant for internal assistance to the Scrutiny Committee. The Scrutiny Committee shall record its reasons for discarding the report of Vigilance Cell.

(8) The Vigilance Cell shall complete the inquiry within six weeks, thereby making suitable inquiry, on all the issues or as specifically directed by the Scrutiny Committee;

(9) Vigilance Inquiry shall be made for respective territorial area of jurisdiction of concerned Scrutiny Committee;

(10) In case of those cases which are referred to Vigilance Cell, upon considering the report submitted by Vigilance Cell, if the Scrutiny Committee is satisfied about the genuineness of Scheduled Caste, Scheduled Caste converts to Buddhism, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category claim of claimant/applicant, it shall be lawful to decide the matter finally by its written decision, and forward the copy of decision and Validity Certificate in FORM-24, to the concerned parties or authority, by preserving its scanned copy (in electronic form).

- (11) (i) In case of those cases which are referred to Vigilance Cell upon considering the 'Report of Vigilance Cell', if the Scrutiny Committee is not satisfied about the claim of the applicant, it shall call upon the applicant to prove his Caste claim, by discharging his burden, as contemplated under section 8 of the Act, by issuing a notice in FORM-25 coupled with copy of 'Report of Vigilance Inquiry';*
- (ii) After issuance of notice/intimation, if applicant requests, by way of written application, for copies of vigilance inquiry report or any other document or prays for adjournment, reasonable time for final hearing or for submitting written submission, it may be granted;*
- (iii) After affording an opportunity of hearing, Scrutiny Committee shall,-*
- (a) on being satisfied regarding the genuineness of the Caste claim, decide the matter finally, upon appreciation of evidence, by its reasoned decision, i.e. decision of committee and issue Certificate of Validity, in FORM-24; and forward the same to concerned authorities within 30 days, by preserving its scanned copy (in electronic form);*
- (b) on being not satisfied about the genuineness of the claim and veracity of the Caste Certificate, it*

shall pass its decision, thereby cancelling and confiscating the original Caste Certificate and invalidating the Caste or Tribe claim of the applicant/claimant;

- (c) upon invalidation of Caste or Tribe claim, the Caste Certificate under inquiry shall be stamped as "cancelled and confiscated", and forward the same along with copy of decision, to the Competent Authority and concerned parties, by preserving its scanned copy (in electronic form);*
- (d) after conclusion of the hearing of the case, the work of writing of the decision shall be assigned to one of its member by the Scrutiny Committee;*
- (e) in case of difference of opinion amongst the members of Committee, on the main order of majority the dissenting member shall write his separate order;*
- (f) The name of member of Committee to whom work of writing final order was assigned, shall be mentioned in the Roznama. Moreover, front page of final order shall disclose the date of the order.*

(12) Notwithstanding anything contained in these rules, it is incumbent on the applicant to disclose all the true and correct information, including disclosure of adverse entries or material, failing which, it shall be lawful for the Scrutiny Committee to draw adverse inference.

(13) If the Scrutiny Committee finds and concludes that the report of Vigilance Cell is false or unrealistic, it shall record the reason in decision and direct appropriate action as contemplated under section 14, read with section 11 and 12 of the Act and also recommend Departmental inquiry against such Vigilance Officer:

Provided that, an opportunity of being heard be granted to the concerned Vigilance Cell Officer prior to any direction for appropriate action. This hearing shall be independent to adjudication of Caste or Tribe claim”.

5. We also grant liberty to the Scrutiny Committee to call for fresh Vigilance Report, in terms of Rule 17(7) of the same Rules.

6. We direct the Scrutiny Committee to decide the tribe claim of the petitioner as expeditiously as possible and preferably within 12 weeks from the date of appearance of the petitioner or her father before it. The petitioner or her father shall appear before the Scrutiny Committee on 13.02.2023.

7. Rule is made absolute in the aforesaid terms. No costs.

(MRS.VRUSHALI V. JOSHI, JJ., J.)

(SUNIL B. SHUKRE J.)

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