

Kishor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4451 OF 2007

Eknath Dada Thorat,	]	
Aged 41 years, residing at	]	
Shruti Apartment, Plot No. 108,	]	
Sector 20, Krishnanagar,	]	
Chinchwad, Dist. Pune.	]	..Petitioner

Vs.

- | | | | |
|----|----------------------------------|---|---------------|
| 1. | State of Maharashtra, through |] | |
| | it's Secretary, Social Justice |] | |
| | Department, Mantralaya, |] | |
| | Mumbai-400 032. |] | |
| 2. | Divisional Caste Certificate |] | |
| | Scrutiny Committee, |] | |
| | Pune Division, Pune through it's |] | |
| | Member Secretary, having it's |] | |
| | office at PMT Bldg., |] | |
| | Swarget, Pune. |] | |
| 3. | Pimpri Chinchwad Municipal |] | |
| | Corporation through it's |] | |
| | Commissioner, Pimpri |] | |
| | Chinchwad, Dist., Pune. |] | |
| 4. | Shri. Shankar Maruti Saykar |] | |
| | resident of Sector 20, Plot No. |] | |
| | 140, Krishnanagar, Chinchwad, |] | |
| | Dist. Pune. |] | |
| 5. | State Election Commission, |] | |
| | Maharashtra State, |] | |
| | Mumbai - 400 032. |] | ..Respondents |

Mr. C. K. Bhangoji a/w. Ms. Komal Gaikwad, Mr. R. K. Mendadkar for petitioner.

Ms. M. P. Thakur, AGP for respondent No. 1 & 2.

Mr. Arjun Kadam i/b. Mr. S. R. Nargolkar for respondent No. 3.

Mr. Vaibhav Patankar i/b. Patankar & Associates for respondent No. 4.

**CORAM : S. B. SHUKRE AND
M. W. CHANDWANI, JJ.**

DATE : 07TH JANUARY 2023

JUDGMENT.

1. Heard.

2. This is a case wherein, according to the petitioner, hearing has been granted by all the 03 members of the Scrutiny Committee but the decision that has been rendered is not signed by all the 03 members of the Scrutiny Committee and that amounts to violation of provisions contained in Rule 18 of the Maharashtra Castes Validity Rules, 2012 ('Rules 2012' for short) which has been stated to be mandatory in nature by co-ordinate bench of this court in connected writ petition No. 3616 of 2020 decided on 15th February, 2021.

3. The learned AGP for respondent Nos. 1 and 2 submit that Rule 18 of Rules 2012 is mandatory in nature but, it is not known as to whether or not one of the 03 members of the Scrutiny Committee had in fact signed the decision or had rendered a separate judgment. Learned advocate holding for Respondent No.2 MCGM adopts the arguments of learned AGP.

4. It appears that none of the members of the Scrutiny Committee had rendered any separate judgment in the matter. This fact can be verified from the copy of the order, which is annexed to the paper book of this petition. On going through the copy of the order, it is seen that, out of those three members, one of the members, who is Chairman / Secretary of the Scrutiny Committee, has not signed the decision and there is no mention about delivery of any separate Judgment. So, now there is no doubt about the fact that the decision rendered by the Scrutiny Committee has not been signed by all the 03 members of the Scrutiny Committee and has been signed by only two of its members.

5. In so far as granting of hearing to the petitioner by all the 03 members of the Scrutiny Committee is concerned,

there is no violation of Rule 18, but the violation, if any, lies in absence of signature of all the 03 members of the Scrutiny Committee below the impugned decision and order. There is no separate judgment, as it appears from the record, which has been rendered by the non signing Member-Secretary. The petitioner has also not been supplied with any separate judgment of the non-signing member, as is required under the proviso to Sub-Rule 3 of Rule 18 of the Rules 2012. But, the question is, whether Rule 18 applies here or not, and if not, which rule or instruction would apply.

6. Rules 2012 came into force in the year 2012 and were not in existence at the time when the impugned decision / order was rendered. But, these Rules are based upon the directions issued by the Apex Court in the case of **Kumari Madhuri Patil and another Vs. Additional Commissioner, Triabai Department, Thane and Ors., 1995 (2), Bom. C. R. (S.C.) (690) : 1994 (6) S.C.C. 241** directing all the State Governments to constitute a committee of 03 officers comprising (I) Additional or Joint Secretary or any officer higher in rank of the Director of the Department concerned (II) the Director Social Welfare / Tribal Welfare / Backward Class Welfare, as the case may be, and (III) in the

case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificate. This is the mandate of the judgment. These directions, being relevant, are extracted as below :-

“All the State Governments shall constitute a Committee of three officers, namely, (I) Additional or Joint Secretary or any officer higher in rank of the Director of the Department concerned (II) the Director Social Welfare / Tribal Welfare / Backward Class Welfare, as the case may be, and (III) in the case of Scheduled Castes another officer who has intimate knowledge in the verification and issuance of the social status certificate. In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or Tribal Communities.”

7. Following the above referred directions issued by the Apex Court, the State Government also issued a Government Resolution dated 25th January, 2000 wherein, in paragraph No. 3, it was mandated that the decision of the Scrutiny Committee shall be signed by all the 03 members of the Scrutiny Committee, although, hearing can be granted by 02 members of the Scrutiny Committee. Paragraph No. 3 of the Government Resolution dated 25th January, 2000, which is in

Marathi, is extracted as below:-

“अनुसूचित जाती, विमुक्त जाती, भटक्या जमाती, इतर मागासवर्ग विशेष मागासप्रवर्ग संदर्भात निर्णय घेण्यासाठी प्रत्येक सुनावणीच्या मूलाखतीच्या वेळी दोन सदस्यांची गणपूर्ती आवश्यक राहिल. जातीची वैधता प्रमाणपत्रे ही वरील तिन्ही अधिका-यांच्या सह्याने कार्यालयाच्या शिक्क्यानिशी निर्गमित करणे आवश्यक आहे.”

8. Freely translated, the mandate of the paragraph is that although hearing can be granted by 02 members of the Scrutiny Committee, the decision of the Scrutiny Committee must be rendered under the signatures of all the 03 members.

9. In the present case, the impugned decision has been given in the year 2007 and, therefore, it would be governed by the G. R. dated 25/01/2000 and not by Rule 18 which came into force in the year 2012. Similarly, the impugned decision would also be governed by the directions issued by the Apex Court in **Madhuri Patil (supra)**. The directions given by the Apex Court, are mandatory in nature and also those as contained in Government Resolution dated 25th January, 2000, as they are based upon the judgment of Apex Court in Madhuri Patil. Therefore, it was necessary for the Scrutiny Committee, in the present case, that it gave a decision which

was signed by all the 03 members of the Scrutiny Committee. However, that is not the case here. We, therefore, find that the impugned decision violates the mandatory directions given by the Apex Court in **Madhuri Patil (supra)** and also those contained in the Government Resolution dated 25th January, 2000. Such decision of the Scrutiny Committee cannot be sustained in the eye of law and is required to be set aside by allowing the petition.

10. The petition is allowed.

11. The impugned decision / order of the Scrutiny Committee is quashed and set aside.

12. The matter is remanded back to the Scrutiny Committee for fresh consideration and decision in accordance with law.

13. The Scrutiny Committee shall give personal hearing to the petitioner and respondent Nos.3 and 4.

14. The petitioner and respondent Nos. 3 and 4 to remain present before the Scrutiny Committee on 23rd January, 2023.

15. The Scrutiny Committee shall decide the validity of the caste claim of the petitioner in accordance with law as

expeditiously as possible and preferably within a period of 03 months from the date of appearance of the petitioner and respondent Nos. 3 and 4 before it.

(M. W. CHANDWANI, J.)

(S. B. SHUKRE, J.)