

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.581 OF 2015

Ramesh s/o Posalya Gavit

...PETITIONER

VERSUS

The State of Maharashtra
and others.

...RESPONDENTS

...

Mr. A.B. Girase Advocate with Mr. P.D. Bachate
Advocate for Petitioner.

Mr.V.D. Salunke, Special Counsel for
Respondents.

...

**CORAM: S.S. SHINDE AND
A.I.S. CHEEMA, JJ.**

DATE : 11TH AUGUST, 2015

ORDER :

1. One Shri Gajanan Kisanrao Wagh, Joint
Secretary, Social Justice & Special Assistance
Department, Mantralaya, Mumbai has filed

affidavit-in-reply. Along with the said reply, at Exhibit R-4, the letter written by Joint Secretary, Department of Social Justice and Special Assistance, Mantralaya, Mumbai addressed to the Superintendent of Police, Nandurbar is placed on record. It is stated in the said letter that Government of Maharashtra has refused sanction to prosecute Dr. Vijaykumar Gavit in Crime Nos. 128 of 2002 to 135 of 2002.

2. The learned counsel appearing for the Petitioner has tendered affidavit in rejoinder. Same is taken on record. The counsel appearing for the Petitioner, on instructions of the Petitioner who is present in this Court, prays that Petitioner may be allowed to withdraw the Petition with further liberty to resort to appropriate remedy so as to take exception to the decision of the Government of Maharashtra to refuse the sanction to prosecute Dr. Vijaykumar Gavit.

3. The prayer to withdraw the Petition is seriously objected by the learned counsel appearing for Respondent No.1. The counsel submits that in fact, on oath, statement is made by the Petitioner before the Judicial Commission, that he never came to Aurangabad in the year 2015 and he did not file the Writ Petition. The learned counsel appearing for Respondent No.1 further submits that if record of the Petition is perused, the verification of the Petitioner was before Notary and he was not identified by the Advocate. Therefore, according to the counsel, the entire initiation of the proceedings of the Petition is suspicious.

4. In respect of the verification clause of the Petition is concerned, upon perusal of the Petition Page 28, original verification, it appears that there is a signature of the Petitioner and rubber stamp of Notary mentioned that he was identified by Mr. Girase Advocate. Of

course in the original in space for signature of Advocate A.B. Girase under endorsement "Identified and Explained by" there is no signature and place is blank.

5. We are not entering into merits and demerits of the contentions raised across the Bar. In case the parties to the Petition are aggrieved by action and/or inaction, they can resort to appropriate remedy before the appropriate forum. Since the Petitioner, who is present in the Court, wish to withdraw the Petition, without entering into merits including the contentions raised in the rejoinder affidavit, we allow the Petitioner to withdraw the Petition.

6. The Writ Petition stands dismissed as withdrawn, accordingly.

7. We make it clear that we have not expressed any opinion about the remedy available

to the Petitioner to take exception to the decision of the State Government in refusing sanction to prosecute Dr. Vijaykumar Gavit.

[A.I.S.CHEEMA, J.]

asb/AUG15

[S.S. SHINDE, J.]