

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

WRIT PETITION NO.8077 OF 2015

Smt.Rama w/o Raju Dehade,
Age 30 years, Occ. Household,
r/o. N-11, C-4/20/6 Gajanan Nagar,
Aurangabad, Dist. Aurangabad.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai - 32
2. The State Election Commission,
Madam Cama Road, Fort,
Mumbai.
3. The Scheduled Caste, O.B.C.,
S.B.C., V.J.N.T., Caste
Certificate Scrutiny Committee,
Aurangabad-1.
4. The Municipal Commissioner,
Municipal Corporation, Aurangabad.
5. Pushpa w/o Tukaram Suradkar,
Age 50 years, Occ. Household,
R/o. House No.F-49/12, N-11,
Navjivan Colony, Aurangabad,
Tal. & District Aurangabad.

...RESPONDENTS

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Mr. S.S.Thombre, Advocate for the petitioner.

Mrs. A.V.Gondhalekar, AGP for respondent nos. 1 and 3.

Mr. S.T.Shelke, Advocate for respondent no.2.

Mr. Kshirsagar h/f Mrs. Manjusha Deshpande, Advocate for respondent no.4.

Mr.Patil and Mr.Phatale, Advocates, h/f Mr.Mahesh Deshmukh, Advocate for respondent no.5.

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CORAM: R.M.BORDE

AND

P.R.BORA, JJ.

DATE : October 27th, 2015

ORAL JUDGMENT: (Per R.M.Borde, J.)

1. Heard. Rule. Rule made returnable and heard forthwith with the consent of learned Counsel for the respective parties.

2. The petitioner is praying for issuance of Writ of Certiorari, or any other writ, or order in the nature of Certiorari for quashing the validation certificate issued in favour of respondent No.5 by the Scrutiny Committee on 26.3.2015.

3. Respondent no.5 claims to belong to Chambhar caste, which is included in the Scheduled Caste category. The concerned respondent contested the elections to the Municipal

Corporation as against a seat earmarked for Scheduled Caste category, and is a returned candidate. The grievance of the petitioner is that the Scrutiny Committee has made undue haste in taking decision on the validation claim, and issued the validity certificate on the date of issuance of the application for verification itself.

4. In order to test the correctness of the contentions raised by the petitioner, we called upon learned A.G.P. to place before us the original record in respect of verification of the caste claim of respondent no.5. It does appear that the application was tendered for verification in Form No.14 on 11th March, 2015, and the validation certificate appears to have been issued on 12th March, 2015. The application tendered by the petitioner claiming validation is accompanied by the original caste certificate as well as the primary school record of the applicant, and a affidavit of the applicant i.e. respondent no.5 is also placed on record before the Scrutiny Committee. The respondent places reliance on the validation certificate issued in favour of her blood relation by name Yogesh, however, the genealogy affirmed by the validity holder has not been placed before the Committee. However, the respondent herself has stated about the relationship by

presenting an affidavit. Apart from this, the old record in the form of school leaving certificate of the father of the respondent is placed on record, however, the extract is a photo-stat copy, and not even a certified copy issued by the school. The State Government has framed the Maharashtra Scheduled Caste, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance of Verification of) Caste Certificate Act, 2001 and Rules, 2012. The procedure prescribed for issuance of validation certificate is laid down under Rule 17. Accompaniments of the proposal are listed in Rule 16. It does appear that the proposal tendered by the respondent is in conformity with Rule 16 of the Rules, however, the Scrutiny Committee has not taken pains to verify the authenticity of the documents placed on record. It is no doubt open for the Scrutiny Committee to issue a validation certificate without holding a further enquiry if the Scrutiny Committee is satisfied on appreciating statement of the 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 that the validation claim is genuine, may proceed to issue the certificate in FORM-20 without holding an enquiry by

Vigilance Cell.

5. In the instant matter, it does appear that the respondent has placed reliance on the validation certificate issued in favour of her blood relation as well as the old record in the form of school leaving certificate of the father, however, the school leaving certificate issued in favour of the father is not even a certified copy but is a photostat copy which is not sufficient to arrive at any conclusion. Similarly, the blood relation of the respondent has not testified as regards the relationship and, as such, according to us, the Scrutiny Committee ought to have further investigated into the matter. It does appear that the Caste Scrutiny Committee has made undue haste in disposing of the application on the date of its presentation.

6. In the facts and circumstances of this case, this petition can be disposed of by remitting the matter back to the Scrutiny Committee for re-consideration with a further direction to extend an opportunity to the respondent to substantiate her claim and proceed to decide the matter in respect of issuance of validation certificate in favour of respondent no.5 on its own merits and in accordance with law. The validation certificate

issued in favour of respondent no.5 is quashed and set aside and the matter stands remitted back to the Scrutiny Committee for re-consideration.

7. The Parties shall appear before the Scrutiny Committee on 18th November, 2015, and as such, no separate notice requiring presence of respondent no.5 before the Scrutiny Committee is necessary. In the meanwhile, respondent no.5 shall be entitled to continue to occupy elected office and no adverse action be taken against her only on the ground of remand of the matter back to the Scrutiny Committee in pursuance to the instant orders passed by us. The Scrutiny Committee shall decide the matter as expeditiously as possible and preferably within a period of six months from today.

Rule is made absolute accordingly.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

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AGP/8077-15wp