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

WRIT PETITION NO.2451 OF 2012

Shri Vitthal Ganpat Otari	... Petitioner
Vs.	
State of Maharashtra and Ors.	... Respondents

Mr. Amit M. Shete, for the Petitioner.
Mr. V.S. Gokhale, AGP, for the Respondent Nos.1 and 2.
Mr. Sangramsinh Yadav, for the Respondent No.3.

**CORAM : A.S. OKA &
A.K. MENON, JJ.**

DATE : 24th FEBRUARY, 2015

PC.

. In the morning session, the learned counsel appearing for the Petitioner and the learned counsel appearing for the third Respondent were present. The learned AGP produced the record of the case of the third Respondent maintained by the second Respondent – Caste Scrutiny Committee.

2. The challenge in this Petition is to the decision dated 29th September, 2010 of the second Respondent – Caste Scrutiny Committee by which the caste claim of the third Respondent that he belongs to Other Backward Class has been upheld. The record of the second Respondent – Caste Scrutiny Committee shows that though Vigilance

Cell inquiry was ordered and Vigilance Cell report was received, there is no speaking order passed by the second Respondent – Caste Scrutiny Committee. The order of the Scrutiny Committee granting validity certificate is recorded in the Roznama. The Roznama records only one sentence that the caste claim is valid on the basis of the report of the Vigilance Cell. There is no independent inquiry held by the second Respondent – Scrutiny Committee and there are no reasons recorded for coming to the conclusion that the third Respondent has established his caste claim. Therefore, the order of the Caste Scrutiny Committee granting validity to the caste certificate produced by the third Respondent is completely illegal and the same will have to be set aside with a direction to the said Caste Scrutiny Committee to decide the caste claim in accordance with law. Hence, we pass the following order :-

ORDER

- (i) The impugned caste validity certificate as well as the order dated 29th September, 2010 passed by the second Respondent are hereby set aside and the matter of verification of the caste claim of the third Respondent is remitted to the second Respondent – Scrutiny Committee;
- (ii) We direct the Petitioner and the third Respondent to appear before the second Respondent – Scrutiny

Committee on 16th March, 2015 at 11.00 am. The Caste Scrutiny Committee will permit both the parties to file additional documents. If additional documents are produced, the Vigilance Cell inquiry on the basis of the additional documents shall be ordered;

- (iii) If the additional documents are not produced, it will not be necessary for the Caste Scrutiny Committee to order a fresh Vigilance Cell inquiry only on the basis of this order of remand unless the Caste Scrutiny Committee is satisfied that the Vigilance Cell inquiry already made is defective;
- (iv) After making an adjudication in accordance with law, the final order shall be passed by the second Respondent as expeditiously as possible and preferably within a period of four months from 16th March, 2015;
- (v) All questions in relation to the caste claim of the third Respondent are kept open to be decided by the Caste Scrutiny Committee in accordance with law;
- (vi) The Petition is partly allowed on above terms;
- (vii) All concerned to act upon an authenticated copy of this order.

(A.K. MENON, J)

(A.S.OKA, J)