

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 662 OF 2014

(Smt. Mayavati Chandrabhan Meshram, Maiden Name – Ku. Mayavati Kashinath Hadke vs. State of Maharashtra thr. its Secretary, Social Justice and Special Assistance, Social Welfare Ministry & Ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
AUGUST 25, 2015.**

Heard Shri Mandpe, learned counsel for the petitioner, Mrs. Hiwase, learned AGP for respondent Nos. 1, 2, 4, 5 & 7, Shri Puranik, learned counsel for respondent No. 3 and Shri Naik, learned counsel for respondent No. 6.

At the threshold, Shri Naik, learned counsel has attempted to show malafides. According to him, the petitioner is not really interested in the matter and her name is being used by somebody else. He names the other person as one Narnaware. However, the facts before this Court shows that the petitioner as also Respondent No. 6 have contested the elections of Nagpur Municipal Corporation and in that election, the petitioner lost and Respondent No. 6 has been declared elected from a reserved post i.e. post reserved for Scheduled Caste (Kaikadi).

Shri Mandpe, learned counsel submits that the basic document i.e. caste certificate submitted by Respondent No. 6 for verification to Respondent No. 2 – Committee is itself false and bogus. No such caste

certificate has been issued by the office of Respondent No. 5 at any point of time. He invites our attention to orders passed by Respondent No. 2 and directions issued therein. He has also invited our attention to a communication dated 16.12.2013 forwarded by Respondent No. 5 to Respondent No. 2.

The learned AGP states that after directions contained in the order of Respondent No. 2 – Committee dated 08.10.2013, Respondent No. 5 has conducted an inquiry and a report thereof has been submitted. She points out that the signature on the certificate produced by respondent No.6 is found to be of one Yashwant Gedam, the officer competent to issue that certificate. Only the original register in which that certificate may have been mentioned while issuing the same, is not being traced out. Accordingly, the report has been submitted to Respondent No. 2.

Shri Naik, learned counsel submits that there is no finding that the certificate is false or bogus and as such, no case is made out warranting interference.

With the assistance of learned counsel, we have perused the papers. The Scrutiny Committee itself found that a case for inquiry was made out. Accordingly, on 08.10.2013 it has issued directions to Respondent No. 5. Respondent No. 5 has thereafter submitted his report on 16.12.2013. In the report, he mentions the statement of Shri Yashwant Gedam, then working as Sub-Divisional Officer, who has signed the caste certificate which was issued in favour of

Respondent No. 6. Shri Gedam has accepted that the said certificate bares his signature. Because of this stand of Shri Gedam, Respondent No. 5 has found it not possible to further verify the facts as original register in which the caste certificate may have been mentioned is not available. He states that though other registers are available, the particular register maintained by Respondent No. 5 could not be seen.

We find the report insufficient. Even if a register is not available, the original case papers must have been preserved by the office of the Collector. The Register will only be a secondary evidence of issuance of certificate and carry the number of the certificate issued to the petitioner. That does not mean that the original case papers are not available. Respondent No. 5 has not conducted any inquiry in this respect.

Hence, keeping all rival contentions open for consideration and without observing anything more on merits, we direct Respondent No. 5 to further probe into the matter. He shall give an opportunity of hearing to the petitioner and Respondent No. 6. The effort shall be made to complete the inquiry within three months from the date the order is received by the office of Respondent No. 5. The inquiry report then prepared shall be forwarded to the office of Respondent No. 2. With these directions, writ petition is partly allowed and disposed of. No order as to costs.

JUDGE

JUDGE