

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.758 OF 2015

- 1) Kailas s/o Totaram Bahekar,
Age-52 years, Occu:Service,
R/o-Hanuman Mandir,
Near Rane Floor Mill, Buldhana,
Tq. & Dist-Buldhana,
- 2) Vijay s/o Pratap Pawar,
Age-41 years, Occu:Service,
R/o-Shivshankar Nagar,
Chikhali Road, Buldhana,
Tq. & Dist-Buldhana,
- 3) Ramesh s/o Sampat Sakhare,
Age-52 years, Occu:Service,
R/o-Tambulwadi, Post-Sakegaon,
Tq-Chikhali, Dist-Buldhana.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Social Justice and Special
Assistance Department,
Mantralaya, Mumbai,
- 2) The Divisional Caste Certificate
Scrutiny Committee, Aurangabad,
Division No.1, Aurangabad,
Through its Member Secretary,

- 3) Pruthavising s/o Bhagwansing Rajput,
Age-50 years, Occu:Service,
R/o-Ganesh Nagar, Malkapur Road,
Buldhana, Tq. & Dist-Buldhana,
- 4) The Executive Magistrate, Gangapur,
Tq-Gangapur, Dist-Aurangabad,
- 5) The Vice President/Managing Director,
Maharashtra State Road Transport
Corporation, Mumbai,
- 6) The Divisional Controller,
Maharashtra State Road Transport
Corporation, Buldhana Division,
Buldhana, Tq. & Dist-Buldhana

...RESPONDENTS

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Mr. Abasaheb D. Shinde Advocate for Petitioners.

Mr. P.S. Patil, A.G.P. for Respondent Nos.

1, 2 and 4.

Mr. S.S. Thombre Advocate for Respondent No.3.

Mr. D.S. Bagul Advocate for Respondent Nos.5 & 6.

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**CORAM: R.M. BORDE AND
A.I.S. CHEEMA, JJ.**

DATE : 27TH JULY, 2016

ORAL JUDGMENT [PER R.M. BORDE, J.] :

1. Rule. Rule made returnable forthwith.

With the consent of the learned counsel for the

parties, taken up for final disposal.

2. The Petitioners are objecting to the validation certificate issued in favour of Respondent No.3 certifying that he belongs to Rajput Bhamta, Vimukta Jatis. It is the contention of the Petitioners that Respondent No.3 has secured promotion on the basis of his caste status as belonging to Rajput Bhamta, Vimukta Jatis though his induction in the employment at initial stage was as an open category candidate. Respondent No.3 also claimed first promotion as open category candidate, however while claiming second promotion he has claimed the same as a candidate belonging to reserved category.

3. We have perused the original record produced by the learned A.G.P. appearing for Scrutiny Committee. Although in the order passed by the Scrutiny Committee it is recorded that Vigilance Cell Inquiry has been conducted, on

perusal of the record we do not find Report of Vigilance Cell Inquiry. There is also no record to show that matter was ever referred for Vigilance Cell Inquiry. Though Respondent No.3 placed reliance on the old documents to substantiate his caste status, there is no verification of the documents with reference to the original record. When a candidate belonging to reserved category places reliance on the certified copies of certain documents for substantiating his caste status claim, it is necessary to direct an inquiry through the Vigilance Cell and to find out the authenticity of the certified copies on which reliance is placed. In the instant matter, though Respondent No.3 has produced old record for substantiating his caste status claim, no efforts have been made to find out the authenticity of the said record with reference to the original documents. In view of these circumstances appearing in the matter, we deem it appropriate to direct fresh inquiry in the matter by the Scrutiny

Committee.

4. The order passed by the Scrutiny Committee validating the caste certificate verification claim of Respondent No.3 is quashed and set aside and the matter stands remitted back to Respondent No.2 Scrutiny Committee for reconsideration. The Scrutiny Committee, after referring the matter to Vigilance Cell and after receipt of the Vigilance Cell Inquiry Report and in observance of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012 and after extending opportunity of hearing to Respondent No.3 to substantiate his caste claim, shall proceed to decide the matter afresh. Appropriate decision shall be taken accordingly as expeditiously as possible, preferably within SIX MONTHS from today.

5. In the meanwhile the Respondent employer shall not take any adverse action against Respondent No.3 merely on the ground of his failure to submit validation certificate and appropriate action if deemed necessary, be taken dependent upon the outcome of the Inquiry in respect of the caste certificate verification claim of Respondent No.3 by the Scrutiny Committee.

6. Rule is made absolute to the extent as specified above. There shall be no order as to the costs.

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

[R.M. BORDE, J.]