

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

WRIT PETITION NO.6520 OF 2016

Sopan s/o. Abbasaheb Bangar,
Age : 53 years, Occ. Service,
r/o. N-6, M-2 14/4,
Sinhgad Colony, Aurangabad

..Petitioner

Vs.

1. The State of Maharashtra,
(Through its Secretary,
Social Justice and Special
Assistance Department,
Mantralaya, Mumbai – 32
2. The Caste Certificate
Scrutiny Committee No.1,
Aurangabad Division,
Aurangabad (through its
Chairman/Member Secretary)
3. The Collector,
Aurangabad
4. The Sub-Divisional Magistrate,
Patoda, Tq. Patoda,
Dist. Beed.
5. Abdul Rahim Hanif Shaikh,
Age:44 years, Occ.Business,
r/o. House No.18-25-136,
Chishtiya Colony, N-6,
CIDCO, Aurangabad

..Respondents

Mr.V.A.Dhakne, Advocate for petitioner

Mr.K.D.Mundhe, AGP for respondent nos.1 to 4

Mr.A.S.Bayas, Advocate for respondent no.5

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**CORAM : R.M. BORDE AND
SANGITRAO S. PATIL, JJ.**

DATE : NOVEMBER 16, 2016

PER COURT :

Heard.

2. Rule. With consent of the parties, taken up for final disposal.

3. The petitioner is objecting to the validation certificate issued in favour of respondent no.5 certifying that he belongs to 'Naikwadi' caste, which is recognised as a Vimukta Jati(A) category.

4. Respondent no.5 is in receipt of the caste certificate issued by the competent authority certifying that he belongs to 'Naikwadi' caste. The caste certificate issued to respondent no.5 was referred to respondent no.2 – Scrutiny Committee. The proposal was received by respondent

no.2 – Scrutiny Committee on 10.03.2015. The validation certificate has been issued in favour of respondent no.5 by respondent no.2 – Scrutiny Committee on 31.03.2015.

5. We have perused the order passed by respondent no.2 – Scrutiny Committee. Respondent no.2 – Scrutiny Committee has not recorded any reason in support of the conclusions drawn and has issued the validation certificate in favour of respondent no.5 by dispensing with the enquiry by the vigilance cell. In view of Rule 17(6) 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 Act, 2012, it is open for the Scrutiny Committee to dispense with enquiry by the Vigilance Cell, if the applicant is in a position to support his claim by production of the relevant record.

6. In the instant matter, the record produced by respondent no.5 in support of his claim *prima facie* does not appear to be sufficient to dispense with the enquiry by the Vigilance Cell and to issue the validity certificate forthwith without embarking upon a detailed enquiry.

7. We have refrained ourselves from making any comment on the claim of respondent no.5 and leave it open to respondent no.2 to scrutinies the proposal afresh and issue appropriate order in observance of the provisions prescribed under the relevant Act and Rules. Respondent no.2 - Scrutiny Committee, in fact, had referred the matter to the Vigilance Cell on 17.03.2015 and the report of the Vigilance Cell dated 24.03.2015 appears to have been tendered to the Scrutiny Committee. The Scrutiny Committee, however, while issuing the order on 31.03.2015 has recorded that the enquiry by the Vigilance Cell is dispensed with. The order

appears to have been passed by the Scrutiny Committee without application of mind.

8. On perusal of the report of the Vigilance Cell dated 24.03.2015, it appears that the Vigilance Cell did not have any access to the relevant original record to verify the correctness of the documentary evidence/copies of the original record produced by respondent no.5 before the Scrutiny Committee. The Vigilance Cell appears to have tendered the report in a hurried manner without holding proper enquiry. In the circumstances, it is desirable to direct the Vigilance Cell to conduct a fresh enquiry in the matter and submit a report to the Scrutiny Committee.

9. It is well settled that the Scrutiny Committee, while directing issuance of validation certificate, is required to record reasons in support of the conclusions drawn in the matter.

10. In the identical facts and circumstances, this Court, while dealing with **Writ Petition No.301 of 2015** in the matter of **Gopal s/o Satrajeet Barbure vs. State of Maharashtra and others, decided on 21st October 2015**, directed quashment of the validation order which was unreasoned one and further mandated the Scrutiny Committee to reconsider the claim of validation of the caste certificate in observance of the procedure prescribed under the law. The course that has been adopted in the matter of **Gopal s/o Satrajeet Burbure (supra)**, needs to be adopted in the instant matter.

11. In the fact and circumstances of the case, the order dated 31.03.2015 issued by respondent no.2 - Scrutiny Committee directing validation of the caste certificate issued to respondent no.5, is quashed and set aside. The matter stands remitted back to respondent no.2 -

Scrutiny Committee for reconsideration. Respondent no.2 shall, in observance of the procedure prescribed under the relevant Act and Rules and after hearing all the parties concerned, decide the issue of validation of the caste certificate issued in favour of respondent no.5, as expeditiously as possible and preferably, within a period of eight months from today.

12. The Vigilance Cell shall conduct a fresh enquiry in the matter and submit a report to the Scrutiny Committee.

13. During pendency and final disposal of the caste validation proceedings before respondent no.2 - Scrutiny Committee, no coercive action shall be taken against respondent no.5 only on the ground of his failure to tender the validation certificate.

14. Rule is accordingly made absolute in the above terms. There shall be no order as to costs.

Sd/-

[**SANGITRAO S. PATIL, J.**]

Sd/-

[**R.M. BORDE, J.**]

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