

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1120 OF 2016**

Smt. Sunita Balu Rathod	}	Petitioner
versus		
State of Maharashtra	}	
and Ors.	}	Respondents

Mr. R. K. Mendadkar for the petitioner.

Ms. Neha Bhide - 'B' Panel Counsel for
respondent nos. 1 to 3.

Mr. Satish Raut i/b. Mr. Shashank Mangle
for respondent no. 4.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.
DATED :- DECEMBER 16, 2016**

P.C. :-

1. On the earlier occasion, we had passed a detailed order noting the contentions of Mr. Mendadkar and relying upon the additional affidavit filed on 1st September, 2016 in this writ petition. The deponent of this affidavit is one Sahadev Bapu Pawar. On the basis of this affidavit, we inquired from Mr. Mendadkar as to how, without any statutory document, this deponent can proclaim that he knew the petitioner's family, including her grandfather, father and uncle and he boldly states that the petitioner's grandfather was a tenant of the family of this deponent in respect of a specific land. Mr. Mendadkar had sought time to take instructions and produce the requisite documents.

2. All that the affidavit tendered today relies upon is a tax receipt dated 23rd June, 2016 and a 7X12 extract, copy of which indicates that the land bearing Gat No. 81/2 village Furus, Taluka Khed, District Ratnagiri is owned by the family of these Pawars. The deponent states that his name appears in the column Bhogvatdar/holder. As far as other rights, including any tenancy or details thereof, barring some numbers, nothing else has been mentioned. The claim of tenancy raised by the petitioner is in relation to the residential structure/house and not a agricultural land. Yet, on taking instructions from this Sahadev Bapu Pawar, Mr. Mendadkar states that in the event the proceedings are relegated back to the committee, the petitioner would be able to produce the relevant documents and at the time when the family of the petitioner, particularly her grandfather was inducted as tenant of the deponent. Even the deponent of this affidavit, who is present in this court, states that he has understood the contents of the same. They were duly interpreted and explained in Marathi. In the event the committee summons him, he would provide all the details and if necessary he would answer the queries raised by the committee. He understands that in the event his deposition is found to be false, then, he is ready and willing to face all consequences, including facing criminal prosecution. Therefore, when the said deponent, who is of

advance age and a senior citizen, but proclaims as above, that we are of the view that one opportunity should be given to the petitioner to appear before the committee and establish her case that she belongs to Laman caste as held, these findings on merits deserve to be upheld by granting her caste validity certificate. There is no dispute that her family was a resident of the State of Maharashtra before the cut-off date. The above material, according to the petitioner, establishes her case that right from 1954, this family had settled permanently in the State of Maharashtra, that her father was born in village Furus, Taluka Khed, District Ratnagiri in the State of Maharashtra on 5th August, 1957, much prior to the cut-off date, that the affidavit of Sahadev Bapu Pawar corroborates that fact. It is in these circumstances and when on merits the committee has agreed with the petitioner that we quash and set aside the impugned order. We direct the committee to once again scrutinise and verify the claim of the petitioner to a limited extent, namely, whether she has established that her family was a permanent resident and had settled in the State of Maharashtra much prior to the cut-off date. The petitioner, in the course of such an inquiry, can rely upon the affidavit of Sahadev Bapu Pawar filed in this court and all documents annexed thereto. Equally, Sahadev Bapu Pawar will be made available for any questioning

by the committee members. In the event the committee directs that the physical presence of Sahadev Pawar should be secured, it will be entirely for the petitioner to take the requisite steps. In the event, despite such affidavit being placed on record, Sahadev Pawar does not co-operate or remains absent, then, the committee will draw appropriate adverse inferences.

3. In the light of the above and without expressing any opinion on the rival contentions, we dispose of this writ petition. The petitioner shall appear before the committee on 23rd December, 2016. The committee to make the above limited inquiry and pass a fresh order as expeditiously as possible and before 31st January, 2017.

4. At this stage Mr. Mendadkar submits that in the event the committee's order and findings therein are adverse to the interest of the petitioner, then, for a period of two weeks from the date of receipt of such adverse order, her services with respondent no. 4- Zilla Parishad, Ratnagiri should not be terminated. While noting this request, we invited the attention of Mr. Mendadkar to the order dated 27th January, 2016 passed by this court in this writ petition. This court had only protected the petitioner against criminal prosecution. The coercive steps that were not to be taken are limited to launching criminal prosecution. There was

no protection against termination from the services. Yet, Mr. Mendadkar, on instructions from the petitioner, who is present in the court personally, states that despite an adverse order dated 22nd December, 2015, respondent no. 4-Zilla Parishad has not taken any steps nor has terminated the services of the petitioner. The respondent no. 4 is served with a copy of the petition and all annexures thereto, as per the office report, in March, 2016. Though there is appearance filed on behalf of respondent no. 4, the concerned advocate is absent. We do not see how, in the teeth of this ad-interim order and on the date of which it was passed that the court was not appraised of the position that the petitioner continues to report for work. However, as the petitioner proclaims that her services are not terminated, she is drawing salary and emoluments for them, for the present, we express no opinion on this aspect. If her services are not terminated by respondent no. 4, then, they shall not be terminated till the committee passes the order and for a period of four weeks thereafter. Our order and direction limited as above, shall not be equated as expression of opinion nor have we conclusively held that the petitioner/her family was residing at the relevant time, in the State of Maharashtra.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)