

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

922 WRIT PETITION NO. 7764 OF 2016

DINKAR RAMDAS SAPKALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Nagori Girish
AGP for Respondents: Mr. P.S. Patil
Advocate for Respondents : Mr. Mahesh S. Deshmukh for R/5
...

**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.**
DATE : 04.07.2017.

P.C. :-

. We have heard both sides.

2. A faint attempt is made by Mr. Deshmukh, appearing on behalf of the contesting respondent no.5 to support the issuance of certificate of validity to the respondent no.5 on the strength of which he contested the elections for the post of Sarpanch of the concerned Gram Panchayat.

3. The complaint of the petitioner was that the Scrutiny Committee has issued a certificate of validity without recording the requisite satisfaction and in terms of 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, 2000 (for short the "Maharashtra Act No. 23 of 2001") and the rules framed thereunder.

4. The committee has failed to carry out its duty of appreciating the materials, namely, the contents of the application, other evidence and documents forwarded along with the application and record its satisfaction about the genuineness of the claim placed before the committee.

5. On such a petition notice was issued to the opposite parties.

6. On 13.06.2017, we recorded the statement of learned A.G.P. Mr. S.G. Karlekar, the order dated 13.06.2017 reads as under:

"1] On 20/7/2016 this Court was given an impression and was expressly made to believe that the certificate of validity which has been utilised by private respondent has been issued pursuant to a reasoned order of the competent scrutiny committee.

2] Upon such a statement made and reiterated throughout, we were constrained to call for the original record.

3] Upon production of the original record, it is in all fairness

stated by Shri Karlekar appearing for the State that having gone through and perused the same he does not find any reasoned order of the competent scrutiny committee culminating in issuance of a certificate of validity copy of which is at page 48-A3 of paper book. If these state of affairs are revealed from the original records, then we are sorry to observe that it is either an officer of the Court appearing for the State who has been misled or the official who brought some record on the concerned date and instructed the appearing advocate for the State to make a statement to the Court either to seek time or to get away from a hearing of that date, who is responsible for the Court observing as it has in its order of 20th July, 2016. Whatever may be the intention, the outcome is that this Court has been given a patently erroneous information on facts.

4] Let the Chairman of the Scheduled Castes Scrutiny Committee No.2, Dhule Division, Dhule remain present in this Court on the next date. We will not hesitate for a minute to remove him from his office and scrap the committee itself if any of the committee members or the officials attached to it have indulged in the act of issuance of a certificate without lawful scrutiny and verification. Let the Court notice be issued to 5th respondent directing him to appear before this Court on the next date. Hamdast is also allowed.

5] Post this matter on 20/06/2017. The original records shall be kept in custody by the Registrar (Judicial). The original

record be handed over to him today itself. That original record be placed in sealed cover.”

7. On 20.06.2017, we also took on record the affidavit of the Incharge Chairman of the caste/tribe Scrutiny Committee, Dhule. The Chairman admitted the serious lapse on the part of the committee in not passing a speaking order but straightway issuing the certificate of validity to the respondent no.5. The Incharge Chairman admitted that this certificate has no legal effect and sanctity. The committee says it can be cancelled.

8. It is only the fifth respondent who was not before us on that date, namely, 20.06.2017 and hence the matter was kept back till today. Today, our attention is invited by Mr. Deshmukh, who supported the certificate of validity, to Rule 17 (6) and Rule 17(10) of the subject rules to submit that it is not necessary that there should be elaborate and reasoned order in all cases and followed by a vigilance inquiry.

9. We do not wish to go into this legal aspect any further for it is conceded that at least a speaking order is warranted and must be issued. That is admittedly not in the file. In such circumstances, we set aside the certificate of validity issued to the respondent no.5. We direct the

committee to verify the claim of the respondent no.5 afresh on merits and in accordance with law and pass a speaking order. That be done as expeditiously as possible and within a period of four months from the date of receipt of a copy of this order. Needles to clarify that this Court has not issued any direction to remove or displace the respondent no.5 as Sarpanch. Writ petition is accordingly disposed of.

[MANGESH S. PATIL, J.]

[S.C. DHARMADHIKARI, J.]