

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6605 OF 2017

Biren Dahyabhai Limbachiya ... Petitioner.

Versus

State of Maharashtra
and others ... Respondents.

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Mr. R.K. Mendadkar for the Petitioner.
Mr. A.P. Vanarase, AGP for Respondent Nos. 1, 2 and 4.
Mr. Vaibhav Sugdare a/w Mr. S.K. Srivastava a/w Ms. Dipali
Chimane i/b. S.K. Srivastava & Co. for Respondent No.3.

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***CORAM : Smt. Vasanti A Naik &
Riyaz I. Chagla, JJ.***

DATE : 23rd November, 2017.

P.C. :

Heard.

By this writ petition, the petitioner challenges the caste validity certificate issued in favour of the respondent No.3.

Inter alia, it is submitted on behalf of the petitioner that the caste validity certificate issued in favour of the respondent No.3 is liable to be set aside as a vigilance enquiry was not conducted in the matter of the caste claim of the respondent No.3 though it would be necessary to conduct the same while verifying the caste claim.

Mr. Vanarase, the learned Assistant Government Pleader appearing for the respondent No.2-scrutiny committee states on the basis of the record and on instructions from the officer who is present in the Court today that a vigilance enquiry was not conducted in the matter of the caste claim of the respondent No.3.

Since it would be necessary for the scrutiny committee to conduct the vigilance enquiry in the caste claim of a claimant and since admittedly a vigilance enquiry was not conducted in the matter of the caste claim of the respondent No.3, the impugned order is liable to be set aside and the matter is liable to be remanded to the scrutiny committee for a *de novo* enquiry.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned caste validity certificate is hereby quashed and set aside. The matter is remanded to the scrutiny committee for a *de novo* enquiry in accordance with law. The parties to appear before the scrutiny committee on 15.12.2017 so that issuance of notice to the parties could be dispensed with. Since the respondent no.3 is elected as a corporator, the office of the respondent No.3 is protected till his caste claim is decided or till the Hon'ble Supreme Court decides the special leave petition in the case of Anant Ulahalkar. Order accordingly. No costs.

(Riyaz I. Chagla J)

(Smt. Vasanti A Naik, J)