

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

WRIT PETITION NO.11149 OF 2017

Mr. Pralhad Bhagirath Derle ... Petitioner.

Versus

State of Maharashtra
and others ... Respondents.

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Mr. R.K. Mendadkar a/w Ms. Priyanka N. Shwaw for the
Petitioner.

Mr. A. P. Vanarase, AGP for Respondent No.1 and 2.

Mr. Pramod N. Joshi for Respondent No.4.

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

DATE : 17th November, 2017.

P.C. :

By this writ petition, the petitioner challenges the caste validity certificate granted by the scrutiny committee in favour of the respondent No.4.

Mr. Mendadkar, the learned counsel for the petitioner *interalia* submitted that the impugned order is liable to be set aside as a vigilance enquiry was not conducted before validating the caste claim of the respondent No.4. It is stated that in a matter of verification of the caste claim of the claimant, the vigilance enquiry would be necessary.

Mr. Vanarase, the learned Assistant Government Pleader appearing for the respondent No. 2-scrutiny committee fairly admits, on instructions that the vigilance enquiry was not conducted before the caste validity certificate was issued in favour of the respondent No.4. It is stated that an appropriate order may be passed in the circumstances of the case.

Since a vigilance enquiry is necessary while verifying the caste claim of a candidate and since admittedly the vigilance enquiry was not conducted in the matter of the caste claim of the respondent No.4, it would be necessary to quash and set aside the impugned order and remand the matter to the scrutiny committee for a *de novo* enquiry.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned order is quashed and set aside. The matter is remanded to the scrutiny committee for deciding the caste claim of the respondent No.4 in accordance with law. Since the respondent No.4 is elected as a member of the Municipal Council, the membership of the respondent No.4 is protected till his caste claim is decided. Order accordingly. No costs.

(Riyaz I. Chagla J)

(Smt. Vasanti A Naik, J)