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

WRIT PETITION NO. 12123 OF 2017

Mohammed Ismail Shaikh .. Petitioner
Vs.
State of Maharashtra & Ors. .. Respondents

Mr. C. K. Bhangoji for the Petitioner.
Mr. N. C. Walimbe, AGP for Respondent Nos.1, 2 & 6.
Mr. Bharat Joshi for Respondent No.3.
Mr. Mayur Jadhav i/b Mr. S. B. Shetye for Respondent No.5.
Ms. Oorja Dhond for Respondent No.4.

**CORAM : SMT. VASANTI. A. NAIK AND
MR. RIYAZ I. CHAGLA, JJ.**
DATE : 27th NOVEMBER, 2017.

P. C. :

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

Inter alia, it is submitted on behalf of the petitioner that the impugned caste validity certificate is liable to be set aside as the Scrutiny Committee had not conducted a vigilance enquiry in the matter of the caste claim of the respondent No.3. It is submitted that since the vigilance enquiry is mandatory before deciding the caste claim, the impugned caste validity certificate is liable to be set aside and the matter is liable to be remanded to the Caste Scrutiny Committee for a fresh decision on merits.

Shri Walimbe, the learned Assistant Government Pleader appearing for the Scrutiny Committee states on the basis of the original record and proceedings and on instructions from the officer who is present in the Court today that a vigilance enquiry was not conducted in the caste claim of the respondent No.3.

Since admittedly a vigilance enquiry was not conducted in the caste claim of the respondent No.3 and it was necessary for the Scrutiny Committee to conduct a vigilance enquiry while verifying 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 caste validity certificate of the respondent No.3 is hereby quashed and set aside. The respondent No.7 Scrutiny Committee is directed to decide the caste claim of respondent No.3 as early as possible. Since the respondent No.3 is elected as a councillor, the office of the respondent No.3 as a councillor is protected till his caste claim is decided or till the Hon'ble Supreme Court decides the special leave petition in the matter of Anant Ulhalkar. Order accordingly. No costs.

[RIYAZ I. CHAGLA, J.]

[SMT. VASANTI A. NAIK J.]