

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

**CRIMINAL APPLICATION SUO MOTU NO. 16/2017**  
**Arising out of**  
**CIVIL WRIT PETITION NO. 538/2016 (D)**

[(SUO MOTU) Courts on its own motion v. K.M. Bhoyar, Research Officer & Member  
Secretary and others]

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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**Court's or Judge's orders**  
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Shri A.M. Deshpande, Additional Public Prosecutor for Applicant.  
Shri Sunil Manohar, Senior Advocate, assisted by Shri A.A. Naik,  
Advocate for Respondent No.1.  
Shri S.B. Wahane, Advocate for Respondent No.3.

**CORAM : R.K. DESHPANDE & M.G. GIRATKAR, JJ**  
**DATED : 13th DECEMBER, 2017**

1. Heard the learned counsel appearing for the parties.
  
2. Writ Petition No.538 of 2016 challenging the order dated 19-1-2016 passed by the Divisional Caste Certificate Scrutiny Committee No.2 at Akola, invalidating the caste claim of one Sanjay Bhaskar Raimulkar, was allowed by this Court by the judgment and order dated 23-3-2017. The operative portion of the order passed by this Court is reproduced below :

*“(i) The impugned order dated 19.01.2016 passed by the Respondent No.2-Scrutiny Committee is quashed and set aside.*

*(ii) The caste claim of the petitioner is remanded to the respondent no.2-Committee for a fresh consideration of material on record on merits and in accordance with law.*

*(iii) The Committee shall give an opportunity of hearing to the petitioner as well as respondents and pass a reasoned order within a period of six months from the date of communication of this order.*

*(iv) The parties to appear before the respondent No.2-Scrutiny Committee on 10<sup>th</sup> April, 2017.*

*(v) Civil Application Nos. 1227/2016, 1564/2016 and 1779/2016 do not survive. They are also disposed of.*

*(vi) Notice to show cause issued to the three Committee members who have signed the second order sheet dated 31.12.2015 and the impugned order, is made returnable on 24.04.2017.*

*(vii) Registry to register separate proceedings in that respect.*

*(viii) Records of present petition, records of Writ Petition No.1800/2014 with Civil Application No. 24/2016 therein, shall be preserved for use in Sec.195/Sec.340 Cr.P.C. proceedings.*

*(ix) Rule made absolute in the aforesaid terms. However there shall be no order as to costs.”*

3. In response to the aforesaid order, the respondent Nos.1, 2 and 3, who are the members of the Scrutiny Committee, were issued notice on 23-3-2017, alleging therein as under :

*“ Whereas, Criminal Application U/S 340 with Section 195 of Cr.P.C. For inquiry in respect of fabrication of order-sheet (Roznama) dated 31-12-2015 by the three Scrutiny Committee Members thereby showing an attempt to interfere with the sanctity of the records of a quasi judicial authority. The order-sheet (Roznama) dated 31.12.2015 demonstrates the dishonesty on the part of the Committee Members who signed the Roznama at a later stage, which prima facie constitute an offence U/S 192 & 193 of I.P.C.*

*(SUO MOTU) Criminal Application is registered on 04.04.2017 as per Hon’ble Court’s order dated 23.3.2017.”*

4. The respondents have appeared before this Court and filed their reply on affidavit. The respondent No.3, the Chairman of the Committee, filed his separate affidavit dated 4-12-2017, whereas the respondent No.1, the Research Officer and Member-Secretary of the Committee, filed his affidavit dated 11-12-2017. Paras 5 and 6 of the affidavit filed by the respondent No.1 reflecting the stand taken by him, are reproduced below :

“5. It is submitted that the respondent is the Research Officer and is not well versed with legal procedure. In place of writing a separate order-sheet, the Members of the Caste Certificate Scrutiny Committee wrote below the Roznama dated 31.12.2015 that the matter was decided and the caste claim was found to be invalid. It is most respectfully submitted that in hindsight the respondent realized that the Caste Certificate Scrutiny Committee ought to have written a separate order-sheet. However, the respondent and Shri Jadhav made an endorsement before the Roznama dated 31.12.2015 by stating that the said noting were made L/O, which means 'later on'. The respondent has clearly stated that the said endorsement was made 'later on'. There was no intention to create any misleading impression. Also there was no intention to favour anyone or to affect anyone adversely. The respondents have realized the mistake committed by them after the decision of the Division Bench judgment of this Hon'ble Court and tender unconditional apology for the same.”

“6. It is submitted that the procedure followed by the Caste Certificate Scrutiny Committee is that they hear the parties on the dates assigned for hearing. Thereafter the matter is usually closed for judgment, if judgment is not dictated and pronounced on the same day. Even if the judgment is dictated and pronounced on the same day, it has to be sent by Registered Post to the applicant as well as respondents, if any. The procedure is to send the order by Registered Post only. It is not usually pronounced in the open Court. When the matter is closed for orders, the order is later on prepared and signed and then dispatched to the applicants and the respondent, if any. The date of dispatch is mentioned in the dispatch register. However, the date of order is mentioned as the date on which the matter is closed for orders. This procedure has been consistently followed by the Caste Certificate Scrutiny Committee.”

5. It is not in dispute that the Committee consists of the Chairman, who is the respondent No.3, and the two Members, who are the respondents Nos.1 and 2 in these proceedings. The Committee heard the arguments of the complainant on 30-12-2015, the arguments of the claimant were heard on 31-12-2015, and the Roznama indicates both these entries accordingly with an endorsement that "the matter is closed for orders on 31-12-2015". Before us, the respondent No.3, the Chairman of the Committee, has stated that he prepared and signed the order on 31-12-2015 itself, validating the claim of the applicant for 'Balai, Scheduled Caste'. It is also not in dispute that the respondents Nos.2 and 3, the Members of the Committee, prepared and signed the order on 18-1-2016, validating the caste claim of the applicant for 'Balai, Scheduled Caste'.

6. Since the time prescribed by this Court to decide the caste claim of the applicant expired on 5-1-2016 and the respondents Nos.2 and 3, the Members, did not prepare and sign the order prior to the said date, an application for extension of time to decide the claim was made on 5-1-2016 before this Court. Before the application could be heard by this Court, both the Members prepared and signed the order on 18-1-2016, validating the caste claim of the applicant.

It is thereafter that an endorsement was made in the Roznama without putting any date, but stating 'L/O' (later on) that the Committee passed an order without any pressure and the Roznama was signed by all the three Members with an endorsement by the respondent No.3, the Chairman, of disagreeing with the Members. Since the order was passed on 18-01-2016 and dispatched thereafter, the application for extension of time was not pressed.

7. Normally and preferably, the judgment or order passed by the judicial or *quasi* judicial authority is pronounced in open Court in presence of the parties on a day fixed for it. Such is the requirement of Order XX, Rule 1 under the Code of Civil Procedure. Such judgment or order becomes effective as soon as it is dated and signed by the Presiding Officer of the Court or the Member or Members of the Tribunal or *quasi* judicial authority. Such is the requirement of Order XX, Rule 3 of the Code of Civil Procedure. The dating and signing the judgment or order is also an important event making it operative. The period of limitation prescribed for preferring an appeal or a revision, as the case may be, starts running from such date subject to the period of exemption provided for that purpose under the law of limitation. If there is no remedy provided, the counting of delay caused in filing of writ petition starts from the

date of communication of the order.

8. If the judgment or order is not pronounced in presence of parties or there is no date fixed for such pronouncement, the judgment or order becomes effective from the date when it is communicated to the parties concerned by post or other recognized mode of communication and accordingly, the limitation starts running from such date and the delay is also counted from such date.

9. Hence, it is mandatory to date and sign the judgment or order. If it is not pronounced on the date fixed and in presence of parties, the date of dispatch of order and its actual communication to the party concerned, should be reflected in the Roznama, which, ultimately in the judicial or *quasi* proceedings, is maintained. The function of maintaining Roznama does not come to an end on the date of closure of the matter for judgment or order, but it continues till the date of receipt of acknowledgment of communication of the order to the parties concerned.

10. What has landed the respondents in trouble in the present case compelling this Court to issue *suo motu* notice was

- (i) that it is shown that the order was passed by the Scrutiny Committee on 31-12-2015 itself, i.e. the date on which the order was reserved, whereas in fact only the respondent No.3, the Chairman, passed and signed the order on that date, but the other two Members prepared and signed the order on 18-1-2016, and (ii) that though the Roznama indicates that the order was passed later on, the dates for passing the order by the Chairman and the other Members of the Committee have not been mentioned in the Roznama. We have noted the stand taken in para 6 of the affidavit filed by the respondent No.1, the Member of the Committee. After hearing is concluded, the practice is to close the matter for orders. The order is prepared and signed on subsequent date, but it is shown to have been passed on the date when the matter is closed for orders and accordingly entry in the Roznama would show the date of closing the matter for orders as the date of passing of the order. This practice has landed the respondents in trouble. We do not find lack of *bona fides* on the part of the respondent Nos.1 to 3 in making the entry 'L/O' (later on) in the Roznama, and we also do not find any dishonesty and tampering with the Roznama so as to attract the provision of Section 192 or 193 of the Indian Penal Code.

11. Keeping in view the problem, which has cropped up in the present case, we are constrained to issue certain directions to the Scrutiny Committees functioning all over the State of Maharashtra so as to avoid occurrence of such eventuality in future. We direct all the Scrutiny Committees functioning all over the State of Maharashtra as under :-

(i) To maintain the Roznama of the proceedings as far as possible and to the extent applicable, as provided in Rule 28 of Chapter II of the Civil Manual regarding maintenance of Roznama proceedings.

(ii) If the order is not passed on the date on which the hearing is concluded, the Roznama should show that the order is reserved.

(iii) Whenever on any subsequent date the order is passed, all the Members of the Committee, including the Chairman, should put the date of passing of such order below their signatures in the order.

(iv) The entry of passing of order in the Roznama should be the entry on which the Members have signed the order.

(v) If different or separate orders are passed by the Chairman/Members of committee, such date should be put in the Roznama.

(vi) The date of dispatch of order should also be shown in the Roznama.

(vii) If acknowledgment of communication of order is received, an entry of that date be shown in Roznama.

12. This order be brought to the notice of all the Scrutiny Committees functioning all over the State of Maharashtra so as to have uniform practice of maintaining Roznama and passing of order.

13. For the reasons stated above the proceedings are dropped.

**(M.G. Giratkar, J.)**

**(R.K. Deshpande, J.)**