

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

WRIT PETITION NO. 8402 OF 2016

The Chief Officer,
Municipal Council, Nagpur

...Petitioner

Versus

1. The State of Maharashtra,
Through :Principal Secretary
(Education), Mantralaya, Mumbai
2. The Divisional Caste Certificate
Scrutiny Committee No.3,
Nagpur Division, Nagpur,
District Nagpur.
3. The Divisional Caste Certificate
Scrutiny Committee No.2,
Dhule, District. Dhule
4. The Education Officer (Secondary)
Zillha Parishad, Nagpur,
District Nagpur.
5. Sandip Vijaysingh Patil,
Age 30 years, Occu : Service,
R/o C/o V.P. Patil,
Flat No.T-302, Shiv Residency-4,
Fago Layout, Ramdeo Baba Hill,
Borgaon, Nagpur-440 013.
6. Suresh Nathuji Bagade, Rehred
Head Master,
Nagpur Parishad High School,
C/o Main Road, Station Ward
Katol, District Nagpur

...Respondents

Mr.S.M.Godsay, Advocate for Petitioner
Mr.A.S.Shinde, A.G.P. for Respondent Nos. 1 to 4
Nos. 2 to 4
Mr.N.K.Choudhari, Advocate for Respondent No.5
Mr.A.S.Kakade, Advocate for Respondent No.6

**CORAM : S.V.GANGAPURWALA AND
A.M.DHAVAL, JJ.**

DATE: APRIL 12, 2018

ORAL JUDGMENT (Per S.V. Gangapurwala, J.)

1. Rule. Rule made returnable forthwith. With the consent of learned Counsel for the parties, heard finally at admission stage.
2. The employer-Municipal Council has approached this court challenging the Judgment and order passed by respondent No.3-Committee validating the caste claim of the present respondent No.5.
3. We have heard Mr.Godsay, the learned counsel for the petitioner, Mr.Choudhari, Advocate for Respondent No.5 and the learned A.G.P.
4. The facts in the present case are glaring and depict the casual manner in which the validity certificate is granted by the Committee.

5. The respondent No.5 had obtained the caste certificate from Nagpur and had submitted proceeding for validation before the Nagpur Scrutiny Committee at Nagpur. The Scrutiny Committee, Nagpur invalidated the caste claim of the respondent No.5. The respondent no.5 challenged the same report before the High Court at Nagpur. The High Court at Nagpur remanded the matter to the Scrutiny Committee, Nagpur. Again, the Scrutiny Committee invalidated the claim of the respondent No.5. Respondent No.5 filed petition before the High Court at Nagpur for the second time. The matter is remanded back to the Committee. At the time, the matter was pending with the Committee at Nagpur, respondent No.5 obtained another caste certificate from Sub-Divisional Officer, Pachora and submitted proceeding for validation before the Dhule Scrutiny Committee. With the jet speed, the Dhule Committee granted validity. The employer has assailed the said order.

6. Respondent No.5 is guilty of fraud. Once his claim was invalidated by the Scrutiny Committee, Nagpur, it was the bounden duty of respondent No. 5 to bring this fact to the notice of the Dhule Committee. At the first instance,

(4)

respondent No.5 could not have obtained the caste certificate from Sub-Divisional Officer, Pachora when already obtained caste certificate from the Scrutiny Certificate at Nagpur and the same was under verification with the Nagpur Committee. The act of respondent No.5 in getting the validity certificate from the Scrutiny Committee at Dhule was fraudulent and was not tenable in the eyes of law.

7. It is stated that after the matter was remanded for the second time by the High Court at Nagpur, the Scrutiny Committee at Nagpur closed the file as the validity was granted by Dhule Committee. In fact, the Scrutiny Committee, Nagpur ought to have taken that proceeding to its logical end.

8. Considering that ex-facie, it is the case of fraud on the part of the respondent No.5 and fraud vitiates all solemn act. The validity granted in favour of respondent No.5 certainly cannot be sustained.

9. Rule is made absolute in terms of prayer clause (C).

10. Respondent No.5 may approach the Nagpur Committee, if so advised.

11. Writ Petition is allowed in above terms. No costs.

(A.M. DHAVALA, J.)

(S.V.GANGAPURWALA, J.)

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