

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

WRIT PETITION NO. 10359 OF 2017

Seema Balaji Yelmate,
Age : 31 years, Occu. Household & Social Work,
R/o. Row House No. 1, Tulshidham,
Nideban Road, Udgir, Taluka Udgir,
Dist. Latur.

Petitioner...

Versus

1. The State of Maharashtra
Through the Ministry of
Social Justice, Cultural Affairs
& Special Assistance Department,
Mantralaya, Mumbai-32.
2. The District Level Caste Scrutiny Committee,
Committee No. 2, Latur, Latur,
Through its Secretary.
3. Mrs. Mirza Reshma Jabin Akram Baig,
Age : 35 years, Occu. Household,
R/o. Samata Nagar, Dam Road,
Near Sagar Bakery, Udgir, Tq. Udgir,
Dist. Latur.
4. Baig Mirza Akram Ismail Baig,
Age : 45 years, Occu. Business,
R/o. Samata Nagar, Dam Road,
Near Sagar Bakery, Udgir, Tq. Udgir,
Dist. Latur.
5. Mirza Azam Ismail Baig,
Age : 31 years, Occu. Business,
R/o. Samata Nagar, Dam Road,
Near Sagar Bakery, Udgir, Tq. Udgir,
Dist. Latur.
6. Mirza Rahim Baig Ismail Baig,
Age : 29 years, Occu. Business,
R/o. Samata Nagar, Dam Road,
Near Sagar Bakery, Udgir, Tq. Udgir,
Dist. Latur.

7. Mirza Ismail Zafar Baig,
Age : 87 years, Occu. Nil,
R/o. Samata Nagar, Dam Road,
Near Sagar Bakery, Udgir, Tq. Udgir,
Dist. Latur.

Respondents...

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Mr Anand P. Bhandari, Advocate for the petitioner
Mr S. S. Dande, AGP for respondent/State
Mr Vivek U. Jadhav, Advocate for respondents No. 3 to 7
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**CORAM : R. M. BORDE &
A. M. DHAVAL, JJ.**

DATE : 12TH JULY, 2018.

ORAL JUDGMENT (PER R. M. BORDE, J.):-

1. Rule. Rule made returnable forthwith. Heard finally at admission stage with the consent of learned counsel for the respective parties.

2. The petitioner is objecting to the order passed by the Scrutiny Committee on 23.03.2017, turning down the Objection Application tendered by her questioning the validation certificates issued in favour of respondents No. 3, 4 & 5 as belonging to Julaha caste (OBC). Respondent No. 3 contested the election for the post of Councillor of Municipal Council at Udgir against the petitioner and got elected. The petitioner claims that, the validation certificates issued to respondents No. 3 and 4, who are related as husband and

wife *inter se*, have been obtained by practicing fraud. The petitioner contends that, the manipulated documents have been relied upon for grant of validation certificates in favour of respondents No. 3 and 4. The documentary evidence produced to support the claim of respondent no. 4, has been relied upon for grant of validation certificate in favour of respondent No. 3. Since, allegedly forged and fabricated record produced for substantiating the claim of respondent No. 4 has been relied upon for grant of validation certificate in favour of respondent No. 3, according to petitioner, there needs to be a thorough investigation in respect of the orders passed by the Scrutiny Committee directing grant of validation certificates in favour of respondents No. 3 and 4.

3. It may not be necessary to record in detail the contentions raised by the applicant/petitioner in her application tendered before the Scrutiny Committee nor it would be necessary to refer to the documentary evidence produced on record of the instant writ petition for substantiating the claim of the petitioner. It would be within the domain of the Scrutiny Committee to consider the contentions and pass appropriate orders. The view adopted by the Scrutiny Committee that it lacks jurisdiction to reopen the cases even if the applicant alleges fraud in securing orders of validation is not correct

and the Scrutiny Committee is empowered to consider the contentions raised in an Objection Application, if such an applicant brings to the notice of the Scrutiny Committee that the validation certificate has been obtained by practicing fraud or reliance was placed on the manipulated documents for grant of such validation certificates. It is essentially the function of the Scrutiny Committee to reconsider the claim and pass appropriate orders after extending an opportunity of hearing to all the parties concerned. Since it is noticed *prima facie*, that allegations are made in the application and in order to substantiate certain allegations the petitioner has relied upon the documentary evidence, it would be within the exclusive domain of the scrutiny committee to consider the contentions and pass appropriate orders in accordance with the provisions of law.

4. In view of the above, the order passed by the Scrutiny Committee dt. 23.03.2017 is quashed and set aside.

5. The Scrutiny Committee is directed to consider the application tendered by the petitioner and re-examine the cases relating to grant of validation certificates in favour of respondents No. 3 and 4, after extending an opportunity of hearing to all the parties concerned and in conformity with the provisions of law.

6. It is clarified that, merely on account of confirmation of the claims in favour of certain other individuals named in the application, the contentions raised by the petitioner in the objection application shall not be turned down and the Scrutiny Committee shall independently assess the objection applications, on its own merits and in accordance with law. The Scrutiny Committee shall consider the objection application and pass appropriate orders in observance of the procedure prescribed in that behalf, as expeditiously as possible, preferably within a period of eight months from today.

7. Rule is accordingly made absolute. No costs.

[A. M. DHAVALE]
JUDGE

[R. M. BORDE]
JUDGE

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