

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

WRIT PETITION NO. 425 OF 2012

Pasha Beg Gulam Beg .. Petitioner

Versus

Union of India Through Minister
For Social Justice and Welfare
Environment, New Delhi and others .. Respondents

Shri Qureshi Shaikhulal Abdul Gafar, Advocate for the Petitioner.
Shri S. B. Deshpande, A.S.G. for the Respondent No. 1.
Mrs. A. V. Gondhalekar, A.G.P. for Respondent Nos. 2, 5 and 6.
The Respondent Nos. 3 and 4 are served.

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

DATE : 22ND JANUARY, 2019.

FINAL ORDER :

. The petitioner has filed present petition seeking directions to implement the Maharashtra State Safai Karmacharis Commission Act, 1997 and the recommendations submitted by Shri Lad and Page Committee to improve the upliftment and safeguard the rights of Bhangi Samaj. The petitioner also seeks directions for appointment of the members in the Commission.

2. Mr. Qureshi, the learned counsel for the petitioner submits that, the petitioner had made representation that he may be

appointed atleast as a member of the Commission. The President of the Commission has been appointed on 10.01.2017, however, the Vice President and other members of the Commission are not appointed. The respondents be directed to appoint the petitioner as a member on the said Commission.

3. Mrs. Gondhalekar, the learned Additional Government Pleader submits that, the word Bhangi is abolished by the State Government by Government Resolution dated 09th November, 2000 and for the sake of convenience they are called as Rukhi or Valmiki. The respondent State has exercised powers under Sub Section 1 of Sec. 3 of the Maharashtra State Commission for Safai Karmacharis Act, 1997. The Government constituted Maharashtra State Safai Karmacharis Act in the year 1998. At the same time various notifications were issued for appointing Chairperson and the members. The representations received by the respondents are to be put before the competent authority for appropriate decision. The representations made by the petitioner were not found in the record. The petitioner may provide the copy of the representation made by him before the authority or may make fresh representation. The respondent/State is taking all the efforts positively for upliftment of Safai Karmacharis by implementation of welfare schemes for Safai Karmacharis. The constitution of the Commission and nomination of the members is continuous process. Steps are

taken in that regard.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. The Central Act relating to Safai Karmacharis has been repealed. As such reliefs claim by the petitioner pursuant to the Central Act cannot be taken into consideration.

6. In writ jurisdiction, we cannot direct to nominate the petitioner individually as a member. It is for the State to take decision considering qualification and all other relevant aspects of the matter for nominating a person as President, Vice President or Member of the Committee. The petitioner having made representation and according to the respondents same is not received, the petitioner may make fresh representation in that regard.

7. The Maharashtra State Commission for Safai Karmacharis Act, 1997 (for short "Said Act") was constituted for upliftment, liberation, rehabilitation and monitoring various welfare schemes in the State of Maharashtra for Safai Karmacharis and make recommendations for better co-ordination and implementation of such programmes and schemes. The same came into force with effect from 30th November, 1997. As per the

said Act term of the Commission is for five years and consists of one Chairperson, one Vice Chairperson and five members to be nominated by the State Government from amongst the persons engaged in social, economic, educational development and welfare of Safai Karmacharis. The function and powers of the Commission are provided under Sec. 8 of the said Act. The Commission has to perform functions such as recommend to the State Government specific programmes of action toward elimination of inequalities in status, facilities and opportunities for Safai Karmacharis under time bound plan. It also has to study and evaluate the implementation of the programme and scheme relating to the social and economic rehabilitation of Safai Karmachais and make recommendations to the State Government for better co-ordination and implementation of such programmes and schemes. For reference we may reproduce Section 8 of the said Act.

**The Maharashtra State Commission for Safai
Karmacharis Act, 1997**

1.
2.

8. (1) The Commissions shall perform all or any of the following functions, namely :—

(a) recommend to the State Government specific programmes of action towards elimination of inequalities in status, facilities and opportunities for Safai Karmacharis under a time-bound action plan;

(b) study and evaluate the implementation

of the programmes and schemes relating to the social and economic rehabilitation of Safai Karmacharis and make recommendations to the State Government for better co-ordination and implementation of such programmes and schemes;

(c) visit various establishments of the State Government, and semi-Government institutions and also aided institutions, and to obtain information, or to advise or make suggestions to the said institutions;

(d) investigate specified grievances and take suo-moto notice of matters relating to non-implementation of,—

(i) programmes or schemes in respect of any group of Safai Karmacharis;

(ii) decisions, guidelines or instructions aimed at mitigating the hardship of Safai Karmacharis;

(iii) measures for the social and economic upliftment of Safai Karmacharis;

(iv) the provisions of any law in its application to Safai Karmacharis, and take up such matters with the concerned authorities or with the State Government;

(e) make periodical reports to the State Government on any matter concerning Safai Karmacharis, taking into account any difficulties or disabilities being encountered by Safai Karmacharis;

(f) deal with any other matter which may be referred to it by the State Government.

(2) In the discharge of its functions under sub-section (1), the Commission shall have power to call for information with respect to any matter specified in that sub-section from State Government or local or other Semi-Government authority.

8. It would appear that, the Commission is constituted under the said Act with an aim and object of uplifting, rehabilitating and monitoring various welfare schemes for Safai Karmacharis. As the Commission is not constituted the laudable object and purpose of the Act is frustrated. The respondents could not have acted indifferently in not constituting the commission. It would appear that after the year 2007, the Commission was never functioning with its required strength of President and Vice President and the members. We fail to understand apathy on the part of the Government in constituting the Commission. As per the affidavit filed, the President has been nominated over the Commission on 25.01.2017. Except the President, no other person is nominated by the Government as a member or Vice President of the Commission. As per the details given nobody was appointed on Commission after 18.08.2007 and for the first time thereafter on 10.01.2017 the President is appointed sans Vice President and the Members. By showing an indifferent approach, the Government is negating very purpose of the said Act. The Government certainly is expected to take appropriate steps in that regard.

9. We expect, the State Government to constitute the Commission so that the purpose and the laudable object of the Act could be implemented. In absence of the members and the Vice President of the Commission, the functioning of the

Commission is at a stand still and certainly the same is not in the interest of Safai Karmacharis.

10. We hope and trust, the Government shall take immediate steps to constitute the Commission in a manner that it is made functional and operational.

11. In the light of the above, the writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/Jan. 19