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

WRIT PETITION NO. 13992 OF 2016

Adivasi Vikas V. Surksha Association & Ors. ... Petitioners
V/s.
State of Maharashtra & Ors. ... Respondents

Mr. Sidheshwar N. Biradar for the Petitioners.
Mr. Sandip Babar, for Respondent Nos.1 to 4.
Mr. Rasik A. Khadse, Under Secretary, GAD, Mantralaya is present.

**CORAM: A.A.SAYED &
 RIYAZ I. CHAGLA, JJ.
DATE: 16TH JANUARY, 2019.**

PC:-

1. The Petitioner Association has filed this Petition impugning the Government Resolution No. BCC-2018/CN72/16-B dated 5th June, 2018 issued by the General Administration Department as also the Government Circular dated 21st October, 2015.
2. The learned AGP has tendered a copy of the order dated 28th September, 2018 passed by the Division Bench of this Court Nagpur Bench in Writ Petition No. 3140 of 2018 (organisation for the Rights of Triable Nagpur Vs. State of Maharashtra, Through the Chief Secretary & Ors.) The Division Bench of this Court has observed thus:-

Accordingly, Shri Mardikar has placed on record the letter addressed by the Chief Secretary to the State of Maharashtra. The contents of the said letter read thus:-

“1. Action of making all the posts vacant, which are presently occupied by candidates whose caste claims are invalidated and the orders have attained finality, would be completed by December, 2019.

2. Against the above vacated posts meant for reserved category candidates, genuine reserved candidate, would be appointed by December, 2019.”

Perusal of paragraph 1 of the said letter would reveal that the State has assured to take action for making all the posts vacant which are presently occupied by the candidates whose caste claims have been invalidated and the orders have attained finality, by the end of December, 2019. Perusal of para 2 of the said communication would reveal that a statement has been made that the vacant posts meant for candidates belonging to reserved categories would be filled from the persons who genuinely belong to reserved categories by December, 2019.

It could, thus, be seen that a time frame has been provided by the State Government to ensure that the posts earmarked for the candidates belonging to various reserved categories and occupied by the candidates whose caste claims have been invalidated would be made vacant latest by December, 2019. It has also been provided that all such vacant posts would be filled from the candidates who genuinely belong to reserved categories by December, 2019.

We only find that the words “and the orders have attained finality” appearing in paragraph 1 of the said communication requires a clarification. A person may challenge the order of invalidation and keep the petition uncirculated for years together and under the garb of the same, would say that the matter has not attained finality. We, therefore, clarify that while working out the number of posts becoming vacant on account of invalidation of caste

claims, the exception should be carved out only in cases of candidates whose orders of invalidation have been stayed by this Court or the Hon'ble Supreme Court. A mere filing of petitions should not be construed that the orders have not reached finality.

We find that with the said clarification, the interests of the candidates genuinely belonging to various reserved classes would be sufficiently taken care of. We, therefore, treat the aforesaid statement along with our clarification as an undertaking given to this Court which is accepted. We further make it clear that non-compliance with the aforesaid statement would entail an action for contempt of Court against the Chief Secretary personally.

We further direct the Chief Secretary to ensure that the aforesaid statement along with the clarification is made applicable to all the institutions which are mentioned in paragraph 7 of the Govt. Resolution in question.

In view of the aforesaid observations, the ad interim order dated 11th June, 2018 stands vacated.

By consent, the Writ Petition to come up for hearing in the second week of January, 2020.

3. Learned AGP has also placed on record the letter dated, 11th January, 2019 of the Under Secretary, General Administration Department, Government of Maharashtra to the Assistant Government Pleader, which reads as follows:-

GOVERNMENT OF MAHARASHTRA

Immediate

**No.BCC-2018/C-505A/16-B,
General Administration Department,
Madam Cama Road, Hutatma Rajguru
Chowk, Mantralaya Mumbai 400 032.
Date :- 11th January, 2019.**

To,

Shri Sandip Babar,
Assistant Government Pleader,
(A.S.), Writ Cell, High Court, Mumbai

Subject :- W.P. No. 13992/2016 filed by Adivasi
Vikas V. Suraksha association & Ors.

Sir,

With reference to our discussion in the matter on 11.1.2019, I am directed to submit that as per the GR dated 12.12.2011, candidates appointed on the posts reserved for backward class categories, are required to submit their proposals for caste validity before the Caste Scrutiny Committee within six months from the date of their appointment. So, those employees who have not submitted their documents for caste scrutiny before the Caste Scrutiny Committee, will be treated as if their caste certificates are invalidated and necessary action will be taken against them as per the direction given by the Hon'ble High Court, Nagpur Bench on 28.09.2018 in W.P. No. 3140 of 2018

2. You are, therefore, requested to make the statement to that effect before the Hon'ble High Court as and when the matter will come up for hearing.

Yours,

Sd/--

(R.A. Khadse)

Under Secretary to the Govt. of Maharashtra

4. We treat the statements in the aforesaid letter dated 11th January, 2019 as an undertaking to this Court and we accept the same. We make it clear that non-compliance of the statements made in the letter would entail action of contempt against the Under Secretary, Government of Maharashtra.

5. In view of the above, no further orders are required to be passed in the present Petition. The Petition to stand disposed of.

6. List the Petition for directions on 20th January, 2020 for reporting compliance.

(RIYAZ I. CHAGLA J.)

(A.A.SAYED, J.)