

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11962 OF 2017

Sachin Murlidhar Sathe Petitioner
Vs.
The State of Maharashtra & Others Respondents

Mr. Ganesh Bhujbal for the Petitioner.
Ms M.P. Thakur, AGP, for Respondent Nos.1 & 2.
Ms Manjiri Parasnis for Respondent No.3.

CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

DATE : MARCH 18, 2019

P.C:

1. On this petition, we had passed the following order
on 12-3-2019:-

“1. When this petition was called out and a serious grievance was raised by the petitioner’s Advocate that Certificate of Validity, issued by the Caste Certificate Scrutiny Committee No.3, Pune, dated 24-1-2012 is relied upon to contest the election to a reserved seat in the local body, we enquired from the learned AGP as to whether indeed this Certificate of Validity is issued in pursuance of an order and passed by this Scrutiny Committee in terms of the Maharashtra Act No.23 of 2001. She says, on instructions, that the petitioner and

the contesting respondent may say that this is a Certificate of Validity but it is not premised on any order nor is it founded on a clear conclusion reached by this Competent Scrutiny Committee that the petitioner has established and proved his claim in terms of Section 8 of the law.

2. In view thereof and when this is a serious lapse and legal infirmity, we would like to scrutinise the records and satisfy ourselves as to how can this at all happen for a Certificate of Validity - the genuineness and authenticity of which has not been doubted or questioned - is on the file but there is no order of the Scrutiny Committee assigning reasons as to why it is issuing such a Certificate. If we find this to be a lapse and in connivance and collusion with the Scrutiny Committee officials, we would not hesitate to remove its Members as also the officials working as support staff.

*3. We list this matter on **18-3-2019**, at 3:00 p.m..”*

2. Pursuant to that order and direction, the original file has been produced.

3. Upon a perusal of this original file and particularly Flag-I, page-I which shows why the Committee has proceeded to issue the Certificate of Validity to respondent No.3.

4. The *roznama* shows that the said respondent No.3 was present and the matter was closed on 23-1-2012.

5. There appears to be no compliance with the mandate

of The Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (for short, "the Maharashtra Act No.23 of 2001).

6. Thus, there is no reasoned order.

7. If that is how there is no order and the contents of the documents placed on record have neither been referred to nor their evidentiary value decided on the touchstone of the law, then, the Certificate of Validity suffers from a patent error of law. The Certificate of Validity will have to be quashed and set aside. The applicant/3rd respondent will have to begin afresh by making an application to the Committee to rescrutinise and reverify his claim. Let that application be made within one week from today.

8. On receipt of such an application, the Committee shall commence the process of scrutiny and verification of the underlying claim again and on this occasion it shall pass a

reasoned order either way. That order be passed as expeditiously as possible and in any event within three months from the date of the appearance by the 3rd respondent and the petitioner before the Committee. We clarify that we have not examined the rival contentions and each one of them are kept open for being urged before the Committee.

9. The writ petition is disposed of in the above terms.
No costs.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)