

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

46 WRIT PETITION NO.3909 OF 2021

LATABAI MAHARU KOLI ALIAS LATABAI CHANDRAKANT
SONAWANE

VERSUS

THE STATE OF MAHARASHTRA AND AND ANOTHER

...

Advocate for Petitioners : Mr. R. N. Dhorde (Senior Counsel) i/b
Mr. B. R. Waramaa

GP for Respondents/State: Mr. D. R. Kale

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**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE : 1st March, 2021

P.C. :

. The petitioner seeks transfer of his validation proceeding from the Committee at Nandurbar to any other Committee in Maharashtra.

2. Mr. Dhorde, the learned senior counsel for the petitioner submits that the petitioner has filed an application for transfer of the proceedings, after having noticed that the petitioner would not get justice from the Committee at Nandurbar. The learned senior counsel submits that the petitioner was constrained to file the application for transfer as the respondent - Committee was not acting judiciously. The Committee was not passing the orders on the application given by the petitioners. The Full Bench of this Court, in a case of **Rajendra**

Shivram Thakur Vs. State of Maharashtra and others reported in **2019(4) Mh.L.J. 721**, has held that if the caste certificate is obtained by an authority without jurisdiction, the same is null and void and the Committee cannot decide the validation proceedings on the basis of the said certificate which was ignored by the Committee and the Committee went on to invalidate the claim of the petitioner on the basis of the certificate issued by the authority without jurisdiction. The petitioner had to approach this Court. This Court set aside the said judgment and remitted the matter back to the Committee for deciding it afresh. In all other cases, the Committee on their own directs the party before it to obtain the certificate from the competent authority but in case of the petitioner, the exception was made. The respondent-Committee is hastily proceeding with the matter. The Committee at Nandurbar is not functioning independently. The complainant's relatives are the Minister and MLA and upon their directions, the Committee functions. The Nandurbar Committee is constituted pursuant to the directions of the then Minister Mr. Vijay Gavit and one Minister, namely, Mr. Valvi is the brother-in-law of Mr. Vijay Gavit. The said Valvi is a complainant. The investigation is also not made properly. The documentary evidence of the petitioner is not investigated and inquired into and only the evidence is sought to be collected as is pointed out by the complainant.

3. We have heard the learned A.G.P.

4. The transfer of the matter cannot be *ipse dixit*. The application is filed merely on apprehension.

5. We do not find any personal allegations made against the members of the Committee or that they have ever indulged in acts of malfeasance, misfeasance or nonfeasance. The petitioner has legal options open. As far as deciding the matter on the basis of the certificate issued by an authority without jurisdiction is concerned, the same does not subsist. This Court has set aside the judgment of the Committee and remitted the matter back. As far as collection of evidence is concerned, the petitioner has an opportunity as per the statute to put-forth her case. We do not find any such allegations necessitating transfer of the matter.

6. The Court would not transfer the matter as a matter of course. In light of that, Writ Petition is dismissed. No costs.

(SHRIKANT D. KULKARNI, J.)

(S. V. GANGAPURWALA, J.)