

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

**WRIT PETITION NO.3298 OF 2019
WITH
CIVIL APPLICATION No.4787 OF 2019
WITH
CIVIL APPLICATION NO.3097 OF 2020**

Avinash Vijay Wagh (Patil)
Age 50 Years, Occu. Agri.,
R/o. Ubhand, Tq. & Dist. Dhule .. **Petitioners**

Versus

1. The State of Maharashtra,
Through the Secretary,
Rural Development Department,
Mantralaya, Mumbai
2. The Collector, Dhule
Tq. & Dist. Dhule
3. The Secretary,
District Caste Scrutiny Committee,
Dhule, Dr. Babasaheb Ambedkar
Social Justice Bhawan, B-Wing,
Behind Sinchan Bhawan, Sakri Road,
Dhule, Tq. & Dist. Dhule
4. The Returning Officer,
Grampanchayat, Ubhand,
Tq. & Dist. Dhule .. **Respondents**

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Advocate for Petitioner: Mr. Amol S. Sawant
AGP for Respondent Nos.1 to 3: Mr. P. K. Lakhotiya
Advocate for Intervenor: Mr. N. L. Chaudhari

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**CORAM: SMT. SADHANA S. JADHAV &
S. G. DIGE, JJ.**

DATE: 23rd MARCH, 2022

ORAL JUDGMENT (*Per Smt. Sadhana S. Jadhav, J.*):

1. Heard.

2. **Rule.** Rule made returnable forthwith. With consent of parties, Petition is taken up for final hearing.

3. The Petitioner herein was declared elected as a Sarpanch of village Ubhand on 11.10.2017. The Petitioner had in fact filed the nomination form and had stated his caste as O.B.C. However when he was elected, the Collector while declaring the results of the election has shown the petitioner to have been elected from Open category. In fact, the post was reserved for O.B.C. category.

4. On 22.11.2018, the Petitioner had received a communication by the Scrutiny Committee which indicated that it appears from the record that his caste claim need not be scrutinized in view of the fact that he is shown declared as elected from the Open category. It appears that the Collector had issued a notice to the Petitioner calling upon him to appear and submit his documents substantiating

his claim. The said notice was issued on 25.01.2019.

5. By this Petition, the Petitioner challenged the said notice. This Court by an order dated 08.03.2019 has protected the Petitioner by granting the following interim relief-

"4. By way of ad-interim order respondent No.2-the Collector is directed not to take any coercive action against the petitioner in furtherance to notice dated 25.01.2019 till the returnable date."

6. In fact, we are of the opinion that the issuance of notice did not cause any action and the Petition is pre-mature. The Petitioner ought to have appeared before the Collector and clarified his status. In fact, soon after the declaration of the elections it was incumbent upon the Petitioner to approach the Collector and bring it to the notice of the Collector that there has been an error in the declaration about his caste category. The Tahsildar by his letter dated 06.05.2019 had clarified to the Collector that it was a typographical error due to which the Petitioner was shown elected from Open category.

The Tahsildar by the said letter had also sought correction of the said column.

7. All these facts would make it clear that it was incumbent upon the Petitioner to get the category corrected. As on today, the Petitioner is at liberty to approach the Scrutiny Committee seeking validity of his caste certificate. In the eventuality that the Petitioner approaches the Scrutiny Committee before 31.03.2022, the Scrutiny Committee shall decide the validity of the caste certificate of the Petitioner as far as possible within one (01) month.

8. The learned Counsel for the Intervenor submits that, in fact, the dispute is pending before the Collector and the Petitioner has filed Reply before the Collector.

9. The issue before the Collector would come to an end since the Tahsildar has communicated to the Collector that it was a typographical error.

10. Rule is accordingly made absolute in above terms.

11. The Writ Petition and the Civil Applications
are disposed of.

[S. G. DIGE, J.]

[SMT. SADHANA S. JADHAV, J.]

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