

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

WRIT PETITION NO.9778 OF 2021

Gaurav s/o Jayantkumar Kathwate,
Age : 32 years, Occu.: Social Worker,
Elected Councillor of Latur Municipal
Corporation, Latur, Dist. Latur
R/o.: Hatte Nagar, Latur.

.... PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai-32
2. District Caste Verification
Scrutiny Committee Latur,
District Latur, through its
President / Member Secretary
3. Omprakash s/o Chandranath
Arya @ Suryawanshi
Age : 70 years, Occu.: Agriculture,
R/o.: Ambulga (Bk.), Post Aurad (Sha.),
Tq. Nilanga, Dist. Latur.

... RESPONDENTS

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Advocate for Petitioner : Mr. Santosh B. Gastgar
AGP for Respondent Nos.1 & 2 : Mr. P. S. Patil
Advocate for Respondent No.3 : Mr. Mahesh Deshmukh h/f
Mr. H. V. Patil
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**CORAM : C. V. BHADANG &
SANDIPKUMAR C. MORE, JJ.**

**RESERVED ON : 21/06/2022
PRONOUNCED ON : 12/09/2022**

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JUDGMENT : (Per : Sandipkumar C. More, J.) :

(Signed judgment is pronounced by Sandipkumar C. More, J. as per clause (i) of Rule 1 of Chapter-XI of Bombay High Court Appellate Side Rules, 1960 as C.V. Bhadang, J. is sitting at Mumbai).

1. Rule. Rule made returnable forthwith. By consent, heard finally at admission stage.

2. The petitioner herein is seeking for quashing and setting aside the order dated 01/15.03.2021 passed by present respondent No.2 i.e. District Caste Scrutiny Committee, Latur. The petitioner is also praying for a direction to respondent No.2 – Committee, to verify his social status as belong to 'Khatik' Scheduled Caste without intervention of respondent No.3, who had in fact filed complaint regarding the caste certificate of the petitioner being obtained by fraud.

3. The background facts are as follows :

The petitioner belongs to 'Khatik' scheduled caste and the competent authority has also issued caste certificate to the petitioner to that effect, which has been validated by the Committee on 20/03/2012. Thereafter, the petitioner got elected as a Councillor in the year 2018. However, as per the direction of Hon'ble Supreme Court in the case of ***District Collector Satara and another vs. Mangesh Nivrutti Kashid, reported in (2019)10SCC 166***, the petitioner is ready to reverify his social status as belonging to 'Khatik' scheduled caste. It is contended by the petitioner that respondent No.3 is a

complete stranger and cannot challenge his caste certificate and validity certificate by making complaint to the concerned Committee being not having any *locus-standi*. However, respondent No.2 - Committee by ignoring the observations of the Hon'ble Apex Court in the case of ***Ayaaubkhan Noorkhan Pathan vs. State of Maharashtra and others, reported in 2012 AIR SCW 6177***, allowed intervention of present respondent No.3 by dismissing the objection of the petitioner on the point of *locus- standi*. Hence, this petition.

4. On the contrary, respondent No.3 vide his affidavit in reply dated 12/10/2021 strongly opposed the petition by stating the facts as to how the caste certificate is obtained by the petitioner on the basis of fraud and incorrect information. According to respondent No.3, real cousin brother and father of the petitioner were '*Hindu Dhangar*' by caste as per entries in their school register and therefore, the petitioner cannot be of 'Khatik' caste.

5. Heard rival submissions and also we have gone through the entire record with the assistance of the learned counsel for rival parties.

6. On perusal of the impugned order dated 01/15.03.2021, it is evident that as per the direction of Hon'ble Apex Court in Special Leave petition No. 2723 of 2015, re-inquiry is being carried, as to validation of the certificate. In view of the said re-inquiry, present respondent No.3 has filed complaint in respect of caste of the petitioner being of 'Khatik'-Scheduled Caste. It is further evident that on 22/01/2021, the petitioner had in fact submitted an application before respondent No.2- Committee

stating that respondent No.3 has no *locus-standi* to raise objection in respect of his caste as respondent No.3 is nowhere concerned in the matter. The petitioner had raised such objection on the ground that respondent No.3 is not belonging to any scheduled caste and he is not even a resident of Latur City from where the petitioner is elected. He further contended that respondent No.3 cannot be considered as an aggrieved person in this matter and therefore, he cannot be allowed to raise objection to his caste. The respondent No.2 - Committee by placing reliance on Section 19(1) 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 has held that any complaint received in respect of caste of any person, the Committee is empowered to inquire such complaint as per the legal provisions.

7. It is significant to note that the petitioner in the instant matter is challenging the impugned order dated 01/15.03.2021 on two grounds viz. respondent No.3 is not having any *locus-standi* to file such complaint and that respondent No.3 cannot be treated as aggrieved person for raising such objection to his caste. The learned counsel for the petitioner placed reliance on the judgment of the Hon'ble Apex Court in the case of **Ayaaubkhan Noorkhan Pathan** (supra), wherein it is observed that a person who has suffered any legal injury, can only challenge the act/action/order in a Court of Law. Writ petition under Article 226 of the Constitution is maintainable either for enforcement of any fundamental right or for the purpose of enforcing a statutory or legal right, or when there is a breach of

statutory duty on the part of the Authorities. On going through the said judgment it appears that the Hon'ble Apex Court has *inter alia* held that the complainant must be a person who has suffered or suffers from any legal injury. However, the Hon'ble Apex Court has also held in para 22 of the said judgment as follows :

"22. Thus, from the above it is evident that under ordinary circumstances, a third person, having no concern with the case at hand, cannot claim to have any locus-standi to raise any grievance whatsoever. However, in the exceptional circumstances as referred to above, if the actual persons aggrieved, because of ignorance, illiteracy inarticulation or poverty, are unable to approach the court and a person, who has no personal agenda, or object, in relation to which, he can grind his own axe, approaches the court, then the court may examine the issue and in exceptional circumstances, even if his bona fides are doubted, but the issue raised by him, in the opinion of the court, requires consideration, the court may proceed suo motu, in such respect. Cross-examination is one part of the principles of natural justice:

8. The learned AGP has also relied on the observations of Division Bench of this Court in the case of **Maharashtra**

Adiwasi Mana Jamat Mitra Mandal, Nagpur and another vs. State of Maharashtra and others, reported in 2017(1) Mh.L.J.227, wherein the same observation as per para 22 mentioned above is followed. By placing reliance on the said observation, the learned Division Bench of this Court had in fact quashed and set aside caste/tribe certificate and validity certificate issued by respondent No.6 therein.

9. Thus, by the aforesaid observation of the Hon'ble Apex Court and in view of the judgment (supra) relied upon by the learned AGP, it appears that even the person who is not aggrieved actually, can also raise complaint in respect of the caste on the allegation that it has been obtained by playing fraud. We would like to reproduce Rule 19 of the rules framed under the aforesaid Act as below:

"19. Complaints :- (1) Any complaint or allegation that a person to whom a Caste Certificate has been issued, is not belonging to the Caste or Tribe mentioned in the Certificate shall be inquired into by the concerned Scrutiny Committee.

(2) The concerned Scrutiny Committee shall decide all such complaints within a period of six months from the date of receipt of the complaints. If the Scrutiny Committee comes to the conclusion that the Caste Certificate has been wrongly issued, it shall record its decision and such decision of the Scrutiny Committee shall be communicated to the Competent, Authority

who has issued such Caste Certificate for taking suitable action against the applicant.

- (3) *The Scrutiny Committee shall also communicate its decision to the State Government about the wrongful issuance of the Caste Certificates for initiating necessary action against the issuing officer under Section 13 of the Act and also as per relevant disciplinary rules".*

10. On plain reading of Rule 19, it is evident that if any complaint is made alleging that a person to whom a caste certificate has been issued, is not belonging to the caste or tribe mentioned in the certificate is required to be inquired by the concerned scrutiny Committee. Further, it is the duty of Caste Scrutiny Committee to decide such complaint in the light of legal provisions and by giving reasons. Therefore, even if, respondent No.3 is allowed to intervene the inquiry regarding caste of the petitioner then also respondent No.2 - Committee is bound to decide the same in the light of legal provisions.

11. That apart, it is also evident from the record that present respondent No.3 had also raised objection by making complaint in respect of caste of cousin brother and father of the present petitioner in the past. Considering all these aspects, we are of the opinion that the impugned order passed by respondent No.2 - Committee does not suffer from any perversity. Therefore, we find that there is no substance in the present writ petition. Hence, we pass following order.

ORDER

- I) Writ petition is hereby dismissed.
- II) Rule stands discharged, with no order as to costs.

(SANDIPKUMAR C. MORE, J.)**(C. V. BHADANG, J.)***VS Maind/-*