

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

948 WRIT PETITION NO.14199 OF 2018

**CHETAN NARAYAN SHIRSALE
VERSUS
THE DIVISIONAL CASTE CERTIFICATE SCRUTINY
COMMITTEE NASHIK & OTHERS**

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Advocate for the petitioner : Mr.M.S.Deshmukh
Addl.GP for Respondent-State : Mr.P.S.Patil
Advocate for Respondent no.2 : Mr.V.D.Gunale
Advocate for Respondent no.3 : Mr.G.S.Rane

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**CORAM : S.V.GANGAPURWALA &
S.G.DIGE, JJ.**

DATE : 09.02.2022

P.C. :

1] The petitioner is challenging validity certificate issued in favour of respondent no.3.

2] It is submitted by Mr.Deshmukh, learned counsel for the petitioner that in the school record of respondent no.3, surname of respondent no.3 is shown as Jagiyasi. However, the petitioner approached the Committee to obtain caste certificate of respondent no.3. While obtaining caste certificate, the surname of respondent no.3 was shown as Balani. While filing proposal for validity certificate, surname of respondent no.3 was shown as Jagiyasi. Respondent no.3 is claiming as belonging to Jagiyasi, Other Backward Class. There is no document

showing that respondent no.3 belongs to the said caste. Learned counsel for the petitioner submits that without passing speaking order and without conducting vigilance, the Committee has issued validity certificate in favour of respondent no.3.

3] Mr.Rane, learned counsel for respondent no.3 submits that the validity is issued to respondent no.3 in the year 2006. The same is sought to be assailed after 12 years. According to the learned counsel, there is delay. The said validity certificate holds field for more than 12 years before filing the petition. No objection was raised. According to the learned counsel, only because there are some procedural lapses, the same cannot be a ground to set aside the validity certificate after such a long delay.

4] Reliance is placed by the learned counsel for respondent no.3 on the judgment of the Apex Court in the case of **Benedict Denis Kinny Vs. Tulip Brian Miranda and others** reported in **AIR 2020 SC 3050** and judgment of the Division Bench of this Court dated September 26, 2018 in Writ Petition No.7095 of 2018.

5] On perusal of the file, we could not find many documents, nor speaking order passed by the Committee. Only validity certificate is issued. Vigilance was also not conducted.

6] The petitioner has locus standi as he is defeated candidate. The procedure does not appear to have been adhered to. No vigilance was conducted. No speaking order was passed.

7] In the light of that, we are inclined to remit the matter back to the Committee by setting aside the order of the Committee.

8] The order passed by the Scrutiny Committee is quashed and set aside. The parties are relegated before the Committee. The parties shall appear before the Committee on 24.02.2022. The parties are entitled to place on record additional documents on which they want to rely. The Committee may conduct vigilance in respect of the said documents and thereafter decide the proceedings afresh on its own merits in accordance with law and procedure, preferably within four [4] months from the date of appearance.

9] Considering the judgment of the Apex Court in the case of **Benedict Denis Kinny** [supra] and judgment of the Division Bench of this Court dated September 26, 2018 in Writ Petition No.7095 of 2018, the High Court in exercise of judicial review has every jurisdiction to maintain status quo in such matters. Pendency of the proceedings for issuance of caste validity in favour of respondent no.3

would not result in his disqualification to continue as Municipal Corporator of respondent no.2 Municipal Corporation till disposal of the proceedings before the Committee.

10] It is submitted by all Advocates and learned Addl.GP that the matter would now be within the realm of the District Caste Committee, Jalgaon. The matter is remitted back to the District Caste Committee, Jalgaon. The record produced by the learned Additional Government Pleader is returned back.

11] Writ Petition is disposed of. No cost.

[S.G.DIGE, J.]

[S.V.GANGAPURWALA, J.]

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