

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3494 OF 2023

Swapnil Baban ShindePetitioner
Versus
State of Maharashtra & Ors. Respondents

Mr. C.K. Bhangoji, Advocate i/b. R.K. Mendadkar, for the
Petitioner.

Mr. S.D. Rayrikar, AGP, for Respondent Nos.1 & 2.

Mr. Sagar Kursija, Advocate a/w. Harishchandra D. Chavan,
Suraj Jeswani i/b. T.D. Deshmukh, for the Respondent No.3.

CORAM : SARANG V. KOTWAL, J.

DATE : 20th MARCH, 2023

P.C. :

1. Heard learned counsel for the parties.
2. The Petitioner had earlier approached a Division Bench of this Court vide Writ Petition No.2045/2021. In clause (vi) of the operative part in paragraph No.9.1, it was mentioned thus :

“(vi) Consequently, the order dated 16th July, 2021
passed by the Respondent No.3-Collector, Pune
also stands set aside;”

. By the same order clause (iv), the Division Bench had directed that the Petitioner's caste validity claim be decided afresh by the Committee after following the due process of law as contemplated by the provisions of the Caste Certificate Rules, 2012 within a period of four weeks from the date of uploading of the said order.

3. After this order was passed, the Caste Scrutiny Committee again considered the Petitioner's case for issuing or otherwise of caste validity certificate and the caste scrutiny committee had rejected his claim by the order dated 7.2.2023. The fresh order passed by the Caste Scrutiny Committee was challenged by the Petitioner before a Division Bench of this Court vide Writ Petition No.2742/2023. In that Petition on 9.3.2023, the following order was passed :

“Arguments are concluded. Judgment/order is reserved.”

. There is no reference to any stay having been granted for the disqualification of the Petitioner.

4. The Collector i.e. the Respondent No.2 addressed a communication to the Chief Executive Officer of the Zilla Parishad, Pune on 13.3.2023 and in the last paragraph it was mentioned that since the Caste Scrutiny Committee had rejected the Petitioner's claim vide order dated 7.2.2023 and since his caste certificate was cancelled, the Collector's earlier order dated 16.7.2021 be implemented immediately.

5. Learned counsel for the Petitioner submitted that once a Division Bench had specifically set aside the order dated 16.7.2021, it was not a valid order. It can not be made effective by the Collector himself and, therefore, the directions issued by the Collector for implementation of the same order is illegal.

6. Learned counsel for the Respondent No.3 submitted that since the Petitioner had failed to obtain relief in the nature of stay in the pending Writ Petition No.2742/2023 he has chosen to file this Petition to circumvent the implied order of the Division Bench not

granting stay.

7. Learned AGP submitted that once the caste certificate was not validated the Petitioner was automatically disqualified.

8. I have considered all these submissions. Since the order is reserved by the Division Bench of this Court in Writ Petition No.2742/2023, therefore, the order in that Writ Petition would have important bearing on the entire issue. However, at this stage, the fact remains that the order dated 16.7.2021 passed by the Respondent No.2 herein had stood set aside. It obviously cannot be revived. Therefore, the Respondent No.2's communication for implementation of the said order cannot be justified. To that extent, the Petitioner's counsel's submissions is correct. Therefore, it is necessary to set aside that particular communication. It is made clear that the Respondent No.2 is free to take steps in accordance with law keeping in view the order passed by the Division Bench in Writ Petition No.2742/2023 on 9.3.2023. It follows that the communication dated 13.3.2023 issued by the

Respondent No.2 addressed to the Chief Executive Officer of the Zilla Parishad, Pune is set aside. It is again clarified that the Respondent No.2 the Collector can take steps in accordance with law. The Petition is disposed of accordingly.

PRADIPKUMAR
PRAKASHRAO
DESHMANE

(SARANG V. KOTWAL, J.)

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