



* 1 *

1ca15434o23grp sweeper

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

**1 CIVIL APPLICATION NO. 15434 OF 2023
IN WP/3950/2023**

GOPAL MAKHULAL BIRADE AND ORS
VERSUS
KAILASH MAROTI RAJKAUR AND OTHERS

...

**AND
WRIT PETITION NO. 1559 OF 2024**

RAVI ASHOK UBALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTEHRS

...

**AND
CIVIL APPLICATION NO. 488 OF 2024
IN WP/3204/2023**

ZILLHA SWACHTA KAMGAR SANGTNA REGISTRATION
NO. AWB 1127 ITS SECRETARY KASHINATH LAXMAN
JADHAV
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY

...

**AND
WRIT PETITION NO. 1565 OF 2024**

SOMESH RAMRAO BUJAWNE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

...

AND

WRIT PETITION NO. 2054 OF 2022

SUNIL NIVRATTI WAGHMARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

AND
WRIT PETITION NO. 2042 OF 2022

SACHIN RAMESH SONWANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

AND
WRIT PETITION NO. 3204 OF 2023

THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS
VERSUS
GOROBA S/O RAM AARADWAD AND OTHERS
...

AND
WRIT PETITION NO. 3166 OF 2018

CHANDRAKANT PRABHAKARRAO KHANSOLE AND
OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...

AND
CIVIL APPLICATION NO. 2417 OF 2024
IN WP/3204/2023

THE MUNICIPAL UNION MUMBAI
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY
MINISTRY OF SOCIAL JUSTICE AND SPECIAL
ASSISTANCE DEPT

...

AND
CIVIL APPLICATION NO. 3101 OF 2024
IN WP/3950/2023

ARCHANA DHAMARATAN SALVE
VERSUS
THE STATE OF MAHARASHTRA THR ITS PRINCIPAL
SECRETARY AND ORS

...

AND
WRIT PETITION NO. 5365 OF 2023

SUSHILA EKNATH KASAB AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS

...

AND
WRIT PETITION NO. 3950 OF 2023

KAILASH MAROTI RAJKAUR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...

AND
WRIT PETITION NO. 4363 OF 2023

THE STATE OF MAHARASHTRA
VERSUS
GAUTAM ASHOK JADHAV

...

AND
CIVIL APPLICATION NO. 6907 OF 2023
IN WP/3204/2023

NAGEJ MOHAN KANDARE
VERSUS
THE STATE OF MAHARASHTRA

...

AND
WRIT PETITION NO. 13029 OF 2023

MANIK GOVINDRAO BHINGARE AND ANOTHER
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY AND
OTHERS

...

AND
CIVIL APPLICATION NO. 7856 OF 2023
IN WP/3204/2023

SANTOSH BABAN VARKUTE
VERSUS
THE STATE OF MAHARASHTRA

...

AND
WRIT PETITION NO. 10323 OF 2023

SUNIL PARVATRAO NALAWDE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPLE SECRETARY AND OTHERS

...

AND
WRIT PETITION NO. 10322 OF 2023

SUNIL RAMBHAU CHITTE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPLE SECRETARY AND OTHERS

...

AND
CIVIL APPLICATION NO. 11862 OF 2023
IN WP/3204/2023

HANSRAJ RAMDAS BHALERAU AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

...

AND
CIVIL APPLICATION NO. 11864 OF 2023
IN WP/3950/2023

NAGPUR MAHANAGAR PALIKA KARMACHARI
SANGHATANA THROUGH ITS GENERAL SECRETARY
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND ANOTHER

...

AND
WRIT PETITION NO. 11438 OF 2023

PARMESHWAR NARSINGRAO KALWALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
PRINCIPAL SECRETARY AND OTHERS

...

AND
CIVIL APPLICATION NO. 11861 OF 2023
IN WP/3204/2023

CHANDRAKANT GANPAT GAMRE
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY
MINISTRY OF SOCIAL JUSTICE AND SPECIAL
ASSISTANCE DEPARTMENT

...

AND
CIVIL APPLICATION NO. 11863 OF 2023
IN WP/3204/2023

MACHINDRA SHAHURAO SATHE
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY
MINISTRY OF SOCIAL JUSTICE AND SPECIAL
ASSISTANCE DEPART

...

AND
CIVIL APPLICATION NO. 12456 OF 2023
IN WP/3950/2023

MAHARASHTRA STATE MAHANAGAR PALIKA THR ITS
SPOKESPERSON

VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...

AND
CIVIL APPLICATION NO. 12454 OF 2023
IN WP/3950/2023

SUBASH BALWANT MOKLE AND ORS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...

AND
CIVIL APPLICATION NO. 13915 OF 2023
IN WP/3950/2023

AKHIL MAHARASHTRA KAMGAR THR ITS ADVISER
AND MEMBER

VERSUS
STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

...

AND
CIVIL APPLICATION NO. 13914 OF 2023
IN WP/3950/2023

TARACHAND SAMBHAJI KALE AND ORS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...

AND
CIVIL APPLICATION NO. 13911 OF 2023
IN WP/3204/2023

LAL BAWATA MANAPA KAMGAR UNION THROUGH ITS
PRESIDENT DILIP YASHWANT WAGH
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY

...

AND
CIVIL APPLICATION NO. 13913 OF 2023
IN WP/3950/2023

KAILASH MAROTI RAJKAUR AND OTHERS
VERSUS
STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

...

AND
CIVIL APPLICATION NO. 15435 OF 2023
IN WP/3950/2023

BHARTIYA SAFAI KAMGAR SANGHATNA THR ITS
NATIONAL PRESIDENT
VERSUS
KAILASH MAROTI RAJKAUR AND OTHERS

...

AND
CIVIL APPLICATION NO. 15436 OF 2023
IN WP/3950/2023

KAMGAR KALYAN SANGHTANA PRADESHIK
MANORUGNALAYA UNIT THR ITS PRESIDENT

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...

AND
CIVIL APPLICATION NO. 15430 OF 2023
IN WP/3204/2023

MOOKNAYAK KAMGAR UNION THR ITS PRESIDENT

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

...

Shri Amol Sawant, Shri D.G. Kamble, Shri V.G. Salgare, Shri S.B. Patil, Shri S.V. Kurundkar, Shri A.R. Borulkar, Shri Parag Barde, Shri Kunal Kale, Advocates for the Petitioners in the concerned petitions.

Shri V.D. Sapkal, Senior Advocate a/w Shri A.B. Girase, Government Pleader and Shri V.M. Kagne, AGP for the State Authorities in all the matters.

Shri B.B. Shinde, Advocate for Respondent No.1 in WP/3204/23.
Shri R.P. Bhumkar, Advocate for Respondent No.6 in WP/3950/23.

Shri H.S. Bali, Advocate for the sole Respondent in WP/4363/23.
Shri N.N. Desale, Advocate for Respondent No.3 in WP/10322/23.

Shri A.S. Shelke, Shri A.R. Salve, Shri Vaibhav B. Dhage, Shri G.L. Deshpande, Shri S.T. Mahajan, Shri Vinod N. Rathod, Shri M.R. Malpani, Shri P.B. Patil, Shri A.R. Lukhe, Shri R.v/. Bhanarkar, Ms.Dipali S. Jape, Advocates for the Applicants in the concerned Civil Applications.

...

**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 24th June, 2024

Per Court :-

1. On 10.04.2023, we had passed the following order:-

“1. The Petitioners have put forth prayer clauses A, B and C as under :-

“A) By appropriate Writ or Direction in like nature the Respondents be directed to extend the benefits of Government Resolution dated 24th February 2023 to the Petitioners.

B) By appropriate Writ or Direction in like nature, the respondents be directed to appoint the petitioners on the post of “Weepers (SafaiKamgars)” with immediate effect in light of Government Policy.

C) Pending hearing and Final Disposal of the present Writ Petition, the respondents be directed to decide the representation dated 14th March 2023 (Exhibit- “S”) to the present Writ Petition filed by the petitioners.”

2. *This is yet another Government Resolution dated 24th February, 2023, placed before us which, ex facie aims at nullifying the very purpose of establishing the Lad-Page Committee to cater to the need of Walmiki, Mehtar and Bhangi community people whose parents were working as Safai Kamgar on drainage pipelines and sewage pipelines. By order dated 23.03.2023 passed in Writ Petition No.3204/2023, we have observed in paragraph*

Nos.5 to 14 as under :-

“5. We find that various authorities have completely lost sight of the very purpose and object behind the constitution of the Lad-Page Committee, way back in the year 1972. The members of communities viz. Walmiki, Mehtar and Bhangi, in the State of Maharashtra, were finding it difficult to get employment in any department. For generations, they were working as Safai Kamgar/Safaigar, a nomenclature used indicating Bhangi, who were deployed to clear the septic tanks, sewage pipelines and drainage pipelines.

6. The Lad-Page Committee Recommendations were introduced in the year 1972, vide Government Resolution dated 12.06.1972 and the Committee's recommendations were implemented in the year 1975, which were meant for the purpose of ensuring employment to the legal heirs of such Safai Kamgar- employees who belong to Bhangi, Mehtar and Walmiki communities.

7. The learned A.G.P. submits that over the years, the various departments of the Government of Maharashtra have introduced the Government Resolutions dated 20.06.1972, 09.02.1973, 12.08.2075, 16.11.1976, 29.10.1977, 21.06.1979, 06.05.1986, 05.11.1992, 12.01.1994, 30.06.1994, 01.10.2003, 21.04.2006, 31.08.2006, 18.01.2007, 21.10.2011, 26.02.2014, 10.11.2015, 11.03.2016, 19.04.2018 and 24.02.2023, in furtherance of the Lad-Page Committee Recommendations.

8. We find from the above Government Resolutions that the State of Maharashtra has gradually started diluting the Lad-Page Committee Recommendations, thereby depriving those communities of the opportunities of employment as safai workers. The State Government has now diluted the said

recommendations to such an extent that the candidates even from the open categories are now given employment as safai kamgar. Further, depending on the qualification of such entrant, he is even appointed in the class III category, thereby deviating from the very purpose for which the Lad-Page Committee Recommendations were introduced. Naturally, the persons/communities who deserves such benefits, now find such benefits out of reach, as such benefits are being given to persons from the open categories or O.B.C. categories.

9. *Recently, the Hon'ble Supreme Court has delivered a judgment in Ahmednagar Mahanagar Palika vs. Ahmednagar Mahanagar Palika Kamgar Union, 2022 (III) CLR 859 : (2022) 10 SCC 172, wherein, it has been concluded that a legal heir of an employee, who has retired from the service of the Municipal Corporation, cannot be given the benefit of the Lad-Page Committee's recommendations and the "Varasa hakka/Vashila Paddhat", cannot be made applicable for recruiting such legal heirs after the employee has superannuated from employment. The conclusions of the Honourable Supreme Court in paragraph 16 read as under:-*

"16. Even otherwise, such an appointment to the heirs of the employees on their retirement and/or superannuation shall be contrary to the object and purpose of appointment on compassionate grounds and is hit by Article 14 of the Constitution of India. As observed and held by this Court in a catena of decisions, compassionate appointment shall always be treated as an exception to the normal method of recruitment. The appointment on compassionate grounds is provided upon the death of an employee in harness without any kind of security whatsoever. The appointment on compassionate grounds is not automatic and

shall be subject to the strict scrutiny of various parameters including the financial position of the family, the economic dependence of the family upon the deceased employee and the avocation of the other members of the family. No one can claim to have a vested right for appointment on compassionate grounds. Therefore, appointment on compassionate grounds cannot be extended to the heirs of the employees on their superannuation and/or retirement. If such an appointment is permitted, in that case, outsiders shall never get an appointment and only the heirs of the employees on their superannuation and/or retirement shall get an appointment and those who are the outsiders shall never get an opportunity to get an appointment though they may be more meritorious and/or well educated and/or more qualified. Therefore, the submission on behalf of the respondent that the appointment is not on compassionate grounds but the same be called as varas hakka cannot be accepted. Even if the same be called as varas hakka the same is not supported by any scheme and even the same also can be said to be violative of Article 14 as well as Article 15 of the Constitution of India.”

10. The Supreme Court has, therefore, concluded that Varas Hakka should not be utilized for recruitment of legal heirs, whose parents have superannuated from employment. It is categorically held that no one can claim to have a vested right for an appointment on compassionate basis. Such appointment cannot be extended to the heirs of employees on their superannuation or retirement. If such an appointment is permitted, only heirs of employees, on superannuation or retirement, would get employment and those, who are outsiders, shall never get an opportunity to seek

employment though they may be meritorious, well educated or more qualified.

11. We are informed that the Pimpri Chinchwad Municipal Corporation has appointed 182 candidates, purportedly on the basis of Lad-Page Committee Recommendations calling it as "Varsa Lad". The candidates from open categories are also given such appointments, which now have been described by the Hon'ble Supreme Court as backdoor entries. The Lad-Page Committee Recommendations were never meant for recruitment of the candidates from any categories, much less, open category, save and except the Walmiki, Mehtar and Bhangi communities. Even the State Government is resorting to Resolutions introduction spree, thereby diluting the Lad-Page committee recommendations. The very purpose and object for which the committee was constituted, would be defeated and those for whom such employment was meant, would be left in the lurch.

12. In view of the above and keeping in view the law laid down by the Hon'ble Supreme Court in Ahmednagar Municipal Corporation (supra), we are staying the impugned order of the learned Tribunal. We further direct the State Government and all entities/ establishments/instrumentalities, etc, in Maharashtra, to immediately stop making 'Varsa hakka' appointments post retirement of the employees, until further orders. However, since the Respondent original applicant, has already been appointed in place of his father, status quo as existing today, shall be maintained and no order of confirmation would be passed, until this Petition is decided.

13. Considering the cause that has been brought before us and several such Petitions pending, we deem it appropriate to appoint the

learned senior advocate Shri R.N. Dhorde, as an amicus curiae in this matter. We would consider the importance, significance and the amplitude of the Lad-Page Committee Recommendations. We appreciate that the learned senior advocate Shri Dhorde has agreed to assist us on this issue.

14. *The learned A.G.P. shall ensure that a complete Petition paper book alongwith the full set of Government Resolutions and various judgments on the Lad-Page Committee Recommendations, shall be prepared and one set of such compilation would be handed over to the learned senior advocate Shri Dhorde.”*
3. *Issue notice to the respondents returnable on 18th April, 2023. The learned AGP waives service of notice on behalf of Respondent Nos.1 to 5. Besides court notice, the Petitioners are at liberty to serve Respondent No.6 through Advocate notice along with the copy of this order and submit a service affidavit.*
4. *In view of the above and considering the law laid down by the Hon’ble Supreme Court in Ahmednagar Mahanagar Palika Vs. Ahmednagar Mahanagar Palika Kamgar Union, (2022) 10 SCC 172, we direct that the State Government would refrain from extending the benefits of the Government Resolution dated 24th February, 2023 until further orders, save and except to the legal heirs of those employees, who belong to Walmiki, Mehtar and Bhangi communities.”*

2. Today, we have considered the strenuous submissions of the learned Senior Advocate Shri Sapkal, along with the learned Government Pleader, for the State of

Maharashtra and the learned Advocates for the respective litigating parties. For proper appreciation, we have referred to the 1971 report, which was tendered under the title '*Committee to Advice Government regarding conditions of work and employment of scavengers and sweepers*' printed by the Government Central Press, Mumbai, in 1976. The Committee was chaired by Shri B.V. Laud, Commissioner of Labour, Mumbai. This Committee was, therefore, known as 'Laud Committee'.

3. The Laud Committee report indicates at clause 6.8 on internal Page No.27, that while making recruitment of such Safai Kamgars, it is noticed that the workmen in the profession/job of scavenging come from the 'Bhangi' community alone, while those in the profession of sweeping come from the Scheduled Caste category, which includes 'Mahar', 'Mang', 'Bhangi', etc. castes. The sweepers and scavengers are generally recruited directly by the Municipal bodies and the Cantonment Boards. Such recruitment is also done in private sectors. In Government Service, the use of Employment Exchange and the Social Welfare Department, is made for recruiting sweepers and

scavengers. The report indicated in the said clause 6.8, that the Committee observed that in Municipal bodies, when a permanent sweeper or scavenger retires or is unable to continue in employment on the ground of disablement/ death etc., usually his vacancy is filled in by what is called 'Vashila Paddhat' (Varas Hakka/ inheritance), where under, a near relative of the said employee is given preference in the employment on the vacancy so created. The Committee opined that this 'Vashila' system should be continued since it also has an added advantage of continuing the housing accommodation (which may be provided to the said employee) within the family and thus, prevent the family from dislocation.

4. As recorded in our order dated 10.04.2023, Pimpri Chinchwad Municipal Corporation appointed 182 candidates purportedly on the basis of the Laud- Page Committee recommendations by calling it as 'Varsa Laud' (Varsa Paddhat). The candidates of Open categories were also given such appointments, which have now been described by the Honourable Supreme Court as 'Back Door entries'.

5. We have perused the Government Resolution dated 12.08.1975, by which, the recommendations of the Laud Committee were accepted. The V. S. Page Committee (Chairman of the Vidhan Parishad) was constituted for the purpose of implementing "अस्पृश्यता निर्मूलनार्थ उपायोजना" (Means and Measures for Abolition of Untouchability). The recommendations of the Page Committee were implemented by the Government Resolution dated 21.06.1979, wherein, the Page Committee observed that “सारांश, हजारो वर्षांची अस्पृश्यता अजून मूळ धरून आहे असे दिसून आले आहे. यावरून असे सिद्ध होते कि, अस्पृश्यांच्या जीवनातील आर्थिक दुरावस्थेला जन्मजात अस्पृश्यताच कारणीभूत ठरली आहे. तसेच अस्पृश्यता हि अनीती समजली न जाता पारंपरिक रूढ धर्मनितीचे अंग मानली गेली.” *(In summary, it appears that thousands of years of untouchability is still holding roots. This proves that inherent untouchability is the cause of economic misery in the lives of untouchables. Also, untouchability was considered a part of traditional orthodox religion rather than injustice.)*. Needless to state, the ‘Varas Hakk/ Vashila Paddhat’ was continued in the light of the Laud and Page Committees’ recommendations.

6. The situation today is that the State Government introduced the Government Resolution dated 24.02.2023, whose effect we have curtailed in view of the judgment delivered by the Honourable Supreme Court in ***Ahmednagar Mahanagar Palika vs. Ahmednagar Mahanagar Palika Kamgar Union, 2022 (III) CLR 859 : (2022) 10 SCC 172*** and we have permitted the recruitment of the legal heirs of those Safai Kamgars belonging to Walmiki, Mehtar and Bhangi communities, who have been in employment doing the same job for generations together.

7. The stand of the State Government is that whoever is working as a Safai Kamgar, irrespective of his social status of belonging to the reserved categories or even to the open categories, 'Vashila Padhhat/ Varas Hakka' would be made applicable to each of such candidates.

By way of an illustration, if there are 500 Safai Kamgars working in a town, such posts of 'Safai Kamgars' would never be available for recruitment to the public at large since the State Government has applied the 'Vashila Padhhat' for engaging their children after the bread earner retires or dies or seeks voluntary retirement. The result would be that all such

posts would not be available to the public at large, whenever they fall vacant.

8. The further effect of the Government Resolution dated 24.02.2023, would be that if new posts are created, they would be advertised and in the competition for selection, if the candidates from the open categories, meaning, not belonging to Walmiki, Mehtar, Bhangi, Scheduled Caste, would secure employment as Safai Kamgars and the 'Varas Hakka' system would be applicable to such candidates also, thereby, blocking such posts for any recruitment any time in future when such candidates retire. The net result would be, whenever a post of Safai Kamgar is created for the first time, the candidate first selected on such newly created post would be blocking the said post for generations to come since the State Government desires that every post of Safai Kamgar should be reserved only for the 'Varas Hakka/ Vashila Padhhat' in the light of the Laud Page Committee recommendations. This is the reason why the effect of the said Government Resolution has diluted the further chances of recruitment to Walmiki, Mehtar and Bhangi communities.

9. We have noticed from the report of 1974 that the Scheduled Castes were also included for the benefit of the Laud Committee recommendations. The Page Committee recommendations, in addition, suggested that the persons belonging to such categories should be given some security of employment even for their future generations. It is in the light of the said 1974 report that we are permitting the Government to include the category of Scheduled Caste, including 'Navbaudhha', along with the Walmiki, Mehtar and Bhangi communities, in our directions issued in paragraph No.4 of our order dated 10.04.2023. The Scheduled Caste category has also been included by the State in its Government Resolution dated 24.02.2023. In the event any such 'Varas hakka' holder falling in the category of Scheduled Caste has become age barred in view of our order dated 10.04.2023, there shall be relaxation in such cases since our order should not result into taking away rights of a person, who has a claim in view of the Laud-Page Committee recommendations.

10. In view of the above, **all the Civil**

Applications are, accordingly, disposed off.

11. Since the Writ Petitions will now have to be heard finally and preferably at the earliest, let the Respondents complete the pleadings within 30 days from today. The contention in one of the petitions as regard the recommendation by the V. S. Page Committee for eliminating appointment of Safai Kamgars on contractual basis, should also be responded to by the State.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)