

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7301 OF 2024

1. Adivasi Samaj Kruti Samiti & Ors.	...Petitioners
Versus	
The State of Maharashtra	...Respondent

Dr. Uday Warunjikar a/w Mr. Sumit Kate for Petitioners.
Dr. Birendra Saraf, Advocate General a/w Ms. Neha Bhide, G.P., Mr. Jay Sanklecha, 'B' Panel Counsel and Mr. Y.D. Patil, A.G.P. for Respondent-State.

**CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.**

DATE : 14 JANUARY 2025

P.C.:

1. We have heard Dr. Uday Warunjikar, learned counsel for the petitioners and Dr. Birendra Saraf, learned Advocate General on behalf of the respondent-State.

2. This petition under Article 226 of the Constitution of India is filed, praying for the only substantive relief, which reads thus :-

“This Hon’ble High Court be pleased to call for record and proceeding of the Government resolution dated 20 November 2023, issued by the respondent herein and after satisfying about the legality and prosperities of the same, be pleased to quash and set aside the same by exercising the power under Article 226 of the Constitution of India, 1950.”

3. We may observe that impugned Government Resolution dated 20 November 2023 (Exhibit “E”) was issued by the State Government to

constitute an Education Board/Study Group for the purpose of considering inclusion of the persons belonging to “*Dhangar*” community in the Scheduled Tribe, in the context of their demand for reservation. In mounting a challenge to the impugned Government Resolution (for short, “GR”), it is the petitioners’ contention that the nine members of the education board/study group as constituted by the impugned GR (whose names are set out in the GR) are not eligible, considering the nature of the work assigned to the study group. It is contended by the petitioners that such persons would not be in a position to effectively function as education board/study group being not the experts in such field. It is their contention that this may adversely affect any report which may be submitted by such study group to the State Government.

4. We may observe that the State Government appointing the education board/study group by the impugned GR dated 20 November 2023 has taken place at the time when the issue touching the subject matter was before this Court in the proceedings in the case of **Maharani Ahilyadevi Samaj Prabodhan Manch, Maharashtra Rajya, Mumbai Vs. Union of India & Ors.**, along with other batch of petitions, also transferred from the different Benches of this Court. In the said proceedings, the Division Bench was considering the question *inter alia* whether the category ‘*Dhangad*’ would include the “*Dhangar*” in the State of Maharashtra. The contentions of the petitioners therein was negated by

the Division Bench. Considering the view taken by the Division Bench in **Maharani Ahilyadevi Samaj Prabodhan Manch, Maharashtra Rajya, Mumbai Vs. Union of India & Ors.**, on 6 January 2025, we had passed the following order :-

“ Stand over to 13 January 2025, High on Board, to enable the learned AGP to take instruction whether the impugned Government Resolution dated 20 November 2023 (Exhibit-E) Page No.149 of the petition would have any efficacy in view of the decision rendered by the Coordinate Bench of this Court in the case of **Maharani Ahilyadevi Samaj Prabodhan Manch, Maharashtra Rajya, Mumbai Vs. Union of India & Ors.** dated 16 February 2024 and dismissal of the Special Leave Petition against such decision vide order dated 19 April 2024 passed by the Supreme Court in Prashant Vs. Union of India in SLP No.8456 of 2024.”

5. It is on such backdrop, we have heard learned counsel for the parties. We are informed by learned Advocate General that the education board/study group appointed under the impugned GR has already submitted its report to the State Government. It is submitted that unless the report in some manner is acted upon, that too adversely affecting the rights of the petitioners, it may be not appropriate for the petitioners to raise a challenge as raised in this petition.

6. Dr. Warjunjekar, learned counsel for the petitioners has responded to such contention of the learned Advocate General to submit that a copy of said report as submitted by the education board/study group is not available in the public domain. He would submit that in case the State

Government intends to take any action on the basis of any findings of the Education Board/Study Group, which are prejudicial to the petitioners, it would certainly bring about a situation of the rights of the petitioners being affected. It is also Dr. Warunjikar's contention that the members of the board are some of the petitioners in the proceedings filed before this Court in **Maharani Ahilyadevi Samaj Prabodhan Manch, Maharashtra Rajya, Mumbai Vs. Union of India & Ors.** (*supra*).

7. Considering the rival contentions, we are of the opinion that it would be premature for the petitioners to raise the contentions as noted by us hereinabove, for the reason that, as on date we have a situation that, although a report is submitted to the State Government by the study group, so far the State Government has not acted upon such report. It is for the State Government whether to act upon the said report and / or take any action as may be permissible in law touching the rights of any of the parties. In the event, any such action is resorted, on the basis of the report of the Education Board/Study Group, as constituted under the impugned GR dated 20 November 2023 which is adverse to the petitioners, only then the petitioners can be said to be aggrieved. Thus, until such action on the part of the State Government is not resorted, the petitioners ought not to have a grievance.

8. We are thus of the opinion that at this stage, the petition would not require adjudication. We accordingly dispose of the present petition by the following order :-

ORDER

- (i) The petitioners are free to obtain a copy of report of the education board/study group by making an appropriate application to the appropriate Authority. If such application is submitted, the same be decided in accordance with law, within a period of four weeks from the submission of the application.
 - (ii) In the event any action is being taken on the basis of findings which are recorded by the education board/study group, the State Government to issue necessary intimation of the same to the petitioners.
 - (iii) All contentions of the petitioners including on the validity of the impugned Government Resolution dated 20 November 2023 and/or any action to be taken on the said Government Resolution, are expressly kept open, to be adjudicated in an appropriate proceedings as and when the need so arises.
 - (iv) The contentions of the State Government and all the issues are also expressly kept open.
9. Petition stands disposed of in the above terms.
10. No costs.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]

Rajesh V Chittewan, RA.

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