

News

Can caste scrutiny committee recall orders acquired by fraud? Bombay High Court bigger bench to determine



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Aurangabad Bench, Bombay High Court

A three-judge Bench of the Bombay High Court will rule whether the caste inspection committee created under the Maharashtra Caste Certificate Act, 2000, has the competence to withdraw its order on the ground that it is vitiated by fraud, misrepresentation or suppression of important facts. [Santosh Anil Kolhe and Ors v State of Maharashtra].

A division bench of Justices Manish Pitale and YG Khobragade at Aurangabad referred the petition to a larger bench and also framed five issues to be decided by the bigger court.

These considerations include whether the absence of stated review powers under the 2000 Act prohibits the committee from exercising any inherent capacity to recall its orders in circumstances of fraud.

The Court also asked what protections should apply if such power exists and whether the committee must first acquire authorization from the High Court under Section 7(2) of the Act.

It further raised the issue of whether earlier findings in Rakesh Bhimashankar Umbarje and Bharat Nagu Garud ought to be revisited.

Justice Manish Pitale and Justice YG Khobragade

The applications filed by three males from Nanded challenged the scrutiny committee's judgments dated May 15 which invalidated their prior caste validity certificates on the ground that these were obtained via concealment and misrepresentation.

The petitioners stated that the scrutiny committee has no power to reconsider or recall its rulings even in circumstances of alleged fraud as the Act of 2000 does not give any such jurisdiction.

They relied on the judgments in Umbarje and Garud, wherein the High Court decided that once a validity certificate is obtained, the committee becomes functus officio (having done its function) and only the High Court under Article 226 can interfere.

The State, however, maintained that since fraud vitiates everything, the committee might revoke certifications obtained by misrepresentation or fraud.

Finding a "apparent cleavage" in the approach followed by different benches, the Court emphasized that whereas Umbarje and Garud substantially curtailed the committee's jurisdiction, other judgments recognized its inherent competence to recall fraudulent rulings.

"It cannot be countenanced that orders upholding tribe claims and grant of validity certificates obtained on falsehoods, fabrications, fraud, misrepresentation or suppression of material facts, when noticed subsequently, cannot become the basis of reopening such cases," the Court observed.

It also reasoned that the inspection committee is "better equipped to examine the aspects of fraud, fabrication and misrepresentation as it has some powers akin to those of a civil court" compared to the High Court exercising writ authority.

The Bench directed that the case documents be presented before the Chief Justice for convening a larger bench to decide the divergent views.

Advocates Pratap Jadhavar and R D Biradar appeared for the petitioners.

Additional Government Pleaders SP Sonpawale and Saie S Joshi appeared for the State.

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