



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6913 OF 2009

1. Smt.Savita Sitaram Pawar ..Petitioner  
Age : 33 years  
Occupation : Assistant Teacher  
Residing at Ladkatwadi  
Taluka Daund  
District Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate,  
Purandar,  
At post Saswad,  
Taluka Purandar,  
District - Pune

WITH

WRIT PETITION NO.6427 OF 2009

1. Dattatray Tukaram Koli ..Petitioner  
Age : 35 years  
Occupation : Assistant Teacher  
Residing at Dalaj No.3  
Taluka Indapur  
District Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate,  
Purandar,  
At post Saswad,  
Taluka Purandar,  
District - Pune

**WITH**

**WRIT PETITION NO.6429 OF 2009**

1. Sayajirao Pandurang Yewale ..Petitioner  
Age : 31 years  
Occupation : Assistant Teacher  
Residing at Shelgaon  
Taluka Indapur  
District Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Deputy Collector  
District Pune

**WITH**

**WRIT PETITION NO.6430 OF 2009**

1. Smt.Vrushali Manikrao Bhujbal ..Petitioner  
Age : 32 years  
Occupation : Assistant Teacher  
Residing at Tambe Nagar, MIDC  
Baramati, Taluka Baramati  
District - Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Phaltan  
District - Satara

**WITH**

**WRIT PETITION NO.6431 OF 2009**

1. Sopan Pandharinath Kamble ..Petitioner  
Age : 43 years  
Occupation : Assistant Teacher  
Residing at Kalamb  
Taluka Indapur  
District - Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer

Yashwantrao Chavan Bhavan,  
Pune 1

3. The Tahsildar and  
Executive Magistrate, Indapur  
At post Taluka Indapur  
District - Pune

**WITH**

**WRIT PETITION NO.6432 OF 2009**

1. Gajanan Bapurao Bade ..Petitioner  
Age : 35 years  
Occupation : Assistant Teacher  
Residing at Anandghan  
Post Junction,  
Taluka Indapur  
District - Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, North  
Solapur, Taluka North  
Solapur, District Solapur

**WITH**

**WRIT PETITION NO.6433 OF 2009**

1. Rajendrakumar Amrutrao Pawar ..Petitioner  
Age : 36 years  
Occupation : Assistant Teacher  
Residing at Junction

Taluka Indapur  
District Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Indapur  
At post Taluka Indapur  
District - Pune

**WITH**

**WRIT PETITION NO.6434 OF 2009**

1. Mrs.Nirmala Eknath Kamble ..Petitioner  
Age : 37 years  
Occupation : Assistant Teacher  
Residing at Kazad  
Taluka Indapur  
District Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Patan  
Taluka Patan  
District Satara

**WITH**

**WRIT PETITION NO.6436 OF 2009**

1. Smt.Swati Shrihari Pawal ..Petitioner  
Age : 31 years  
Occupation : Assistant Teacher  
Residing at At Post Junction  
Taluka Indapur,  
District - Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, North  
Solapur, Taluka - North  
Solapur, District - Solapur

**WITH**

**WRIT PETITION NO.6437 OF 2009**

1. Revannath Dattu Sarje ..Petitioner  
Age : 36 years  
Occupation : Assistant Teacher  
Residing at Tambe Nagar,  
MIDC Tandulwadi  
Taluka Baramati  
District - Pune

V/s.

1. The State of Maharashtra ..Respondents

2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Khed  
At post Taluka - Rajgurunagar  
District - Pune

**WITH**

**WRIT PETITION NO.6915 OF 2009**

1. Sanjay Devraoji Sorte ..Petitioner  
Age : 42 years  
Occupation : Livestock  
Supervisor in Animal  
Husbandary Department  
At post Rajewadi  
Taluka Purandar  
District Pune  
Residing at Rajewadi  
Taluka : Purandar  
District Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Wardha  
Taluka and District : Wardha

**WITH**

**WRIT PETITION NO.6918 OF 2009**

1. Rajendra Shrimant Bhandari ..Petitioner  
Age : 36 years  
Occupation : Assistant Teacher  
Residing at Kadwe,  
Taluka Velhe  
District - Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Shirur  
At & post Shirur,  
Taluka Shirur  
District - Pune

**WITH**

**WRIT PETITION NO.6919 OF 2009**

1. Dattatray Dnyaneshwar Langhi ..Petitioner  
Age : 38 years  
Occupation : Assistant Teacher  
at Bhore, District : Pune  
Residing at Bholawade  
Taluka : Bhore  
District : Pune

V/s.

- 1.The State of Maharashtra ..Respondents

2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Bhor  
Taluka : Bhor  
District : Pune

**WITH**

**WRIT PETITION NO.6920 OF 2009**

1. Sampat Abaji Ranjane ..Petitioner  
Age : 33 years  
Occupation : Assistant Teacher  
at Wangani, Taluka : Velhe  
District : Pune  
Residing at Wangani,  
Taluka : Velhe  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Bhor  
At post Taluka : Bhor  
District : Pune

**WITH**

**WRIT PETITION NO.6921 OF 2009**

1. Dnyaneshwar Gulab Dhanawade ..Petitioner  
Age : 43 years  
Occupation : Assistant Teacher  
Residing at Warasgaon  
Taluka : Velhe  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Haveli  
Taluka : Haveli  
District : Pune

**WITH**

**WRIT PETITION NO.6922 OF 2009**

1. Tanaji Babanrao Nailkar ..Petitioner  
Age : 40 years  
Occupation : Assistant Teacher  
at Kalewadi, Taluka : Bhor  
District : Pune  
Residing at Misalwadi,  
Post-Kenkawale,  
Taluka Purandar  
District - Pune

V/s.

1. The State of Maharashtra ..Respondents

2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Bhore  
Taluka : Bhore  
District : Pune

**WITH**

**WRIT PETITION NO.6923 OF 2009**

1. Babasaheb Anna More ..Petitioner  
Age : 36 years  
Occupation : Health Attendant  
at Fhursungi, Taluka : Haveli  
District : Pune  
Residing at Gondhale Nagar  
Saswad Road, Hadapsar,  
Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Karmala  
Taluka : Karmala  
District : Solapur

**WITH**

**WRIT PETITION NO.6924 OF 2009**

1. Sanjay Tukaram Narage ..Petitioner  
Age : 38 years  
Occupation : Assistant Teacher  
at Patharwadi, Taluka : Purandar  
District : Pune  
Residing at Vishnupriya Shikshak  
Society, Saswad, C-5,  
Taluka : Purandar,  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Purandar  
At post Saswad,  
Taluka : Purandar  
District : Pune

**WITH**

**WRIT PETITION NO.6925 OF 2009**

1. Smt.Suvarna Narayan Mane ..Petitioner  
Age : 30 years  
Occupation : Assistant Teacher  
Residing at Karande,  
Pimble Vasti, Taluka : Daund  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents

2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Khatav  
At post Vaduj  
Taluka : Khatav  
District : Satara

**WITH**

**WRIT PETITION NO.6926 OF 2009**

1. Anil Dinkar Gaikwad ..Petitioner  
Age : 34 years  
Occupation : Assistant Teacher  
at Kurungwadi  
Taluka : Bhore  
District : Pune  
Residing at Khopi,  
Taluka : Bhore  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Bhore  
At post Taluka : Bhore  
District : Pune

**WITH**

**WRIT PETITION NO.6927 OF 2009**

1. Bapurao Ganpati Mane ..Petitioner  
Age : 57 years  
Occupation : Supervisor  
Centre Head  
Residing at Bhigwan  
Taluka : Indapur  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Miraj  
At post Taluka : Miraj  
District : Sangli

**WITH**

**WRIT PETITION NO.6928 OF 2009**

1. Gorakh Dnyandev Gaikwad ..Petitioner  
Age : 39 years  
Occupation : Assistant Teacher  
Residing at Waluj  
Taluka : Daund  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer

Yashwantrao Chavan Bhavan,  
Pune 1

3. The Tahsildar and  
Executive Magistrate, Daund  
At post Taluka : Daund  
District : Pune

**WITH**

**WRIT PETITION NO.6929 OF 2009**

1. Sandeep Bajrang Darekar ..Petitioner  
Age : 34 years  
Occupation : Assistant Teacher  
Residing at Malsiras  
Taluka : Purandar  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Purandar  
At Saswad, Taluka : Purandar  
District : Pune

**WITH**

**WRIT PETITION NO.6930 OF 2009**

1. Yeshwant Dattatray Dhumal ..Petitioner  
Age : 33 years  
Occupation : Assistant Teacher  
Residing at Mose (Budruk)  
Taluka : Daund

District : Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Phaltan  
Taluka : Phaltan  
District : Satara

**WITH**

**WRIT PETITION NO.6931 OF 2009**

1. Machindra Shrimant Bhandari ..Petitioner  
Age : 34 years  
Occupation : Assistant Teacher  
Residing at Padalwadi,  
Taluka : Velhe  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Shirur  
At & Post : Shirur  
Taluka : Shirur  
District : Pune

**WITH**

**WRIT PETITION NO.6932 OF 2009**

1. Sanjay Wamanrao Dhumal ..Petitioner  
Age : 36 years  
Occupation : Assistant Teacher  
Residing at Mahur,  
Taluka : Purandar  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Purandar  
At Saswad  
Taluka : Purandar  
District : Pune

**WITH**

**WRIT PETITION NO.6934 OF 2009**

1. Shankar Bhausahab Jorkar ..Petitioner  
Age : 34 years  
Occupation : Assistant Teacher  
Residing at Velhe,  
Taluka : Velhe  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents

2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Velhe  
Taluka : Velhe  
District : Pune

**WITH**

**WRIT PETITION NO.6938 OF 2009**

1. Smt.Ujwala Janardan Rankhambe ..Petitioner  
Age : 34 years  
Occupation : Assistant Teacher  
Ghatewadi,  
Taluka : Purandar  
District : Pune  
Residing at Jejuri,  
Taluka : Purandar  
District : Pune

V/s.

1. The State of Maharashtra ..Respondents
2. The Zilla Parishad, Pune  
Through the Chief Officer  
Yashwantrao Chavan Bhavan,  
Pune 1
3. The Tahsildar and  
Executive Magistrate, Purandar  
At post Taluka : Saswad  
District : Pune

**WITH**

**WRIT PETITION NO.7135 OF 2009**

1. Smt.Kavita Madhukar Maundekar ..Petitioner  
Age : 37 years  
Occupation : Service  
Clerk Education Department  
Primary Section Zilla Parishad  
Pune  
Type 3/15, India Metrological  
Department Colony, Pashan  
Pune 411 008

V/s.

1. The State of Maharashtra ..Respondents
2. The Chief Executive Officer  
Zilla Parishad, Pune  
Yashwantrao Chavan Bhavan,  
Pune 411 001
3. The Executive Magistrate  
Nagpur, At Post Taluka  
District : Nagpur

Mr.P.B.Kakade, Advocate, for the petitioners  
Mr.Vinay Masurkar, Government Pleader and  
Mr.C.R.Sonawane, Assistant Government Pleader, for  
respondent Nos.1 & 3  
Mr.Nitin Deshpande, Advocate, for respondent No.2

**CORAM : S.B.MHASE &  
R.M.SAVANT, JJ.**

**DATE : 2ND SEPTEMBER, 2009**

**ORAL JUDGMENT ( PER R.M.SAVANT, J. )**

. Rule, with the consent of the parties made returnable forthwith and heard.

2. The above Writ Petitions involve a common question and are therefore, dealt with together and disposed of. In Writ Petition Nos.6427 of 2009, 6429 of 2009 to 6434 of 2009, 6436 of 2009 and 6437 of 2009, Rule has already been issued. However, since the issue involved in the aforesaid Writ Petitions and in Writ Petition No.6913 of 2009 and the other companion matters is identical, we thought it proper to place the said Writ Petitions in which Rule has been issued also for hearing with the consent of the learned counsel for the parties.

3. All the petitioners above named have approached this Court against the direction of the respondent No.2 Zilla Parishad calling upon the

petitioners to submit their Caste Certificates by 27<sup>th</sup> July, 2009, so that the same can be referred to the concerned Caste Scrutiny Committee for consideration of the validation of the Caste claim, as each of the petitioner in the above Writ Petitions has been appointed in a post meant for the reserved category.

4. The facts in Writ Petition No.6913 of 2009 are referred to for the sake of convenience. The petitioner in the said Writ Petition came to be appointed on 1<sup>st</sup> December, 1995, as an Assistant Teacher by the respondent No.2. The respondent No. 2 by letter dated 15<sup>th</sup> July, 2009, directed the petitioner to submit her Caste Certificate by 27<sup>th</sup> July, 2009, so that the same could be sent for verification to the concerned Caste Scrutiny Committee for validation. The said communication dated 15<sup>th</sup> July, 2009, has been impugned in the said Writ Petition, similar communications have been impugned in the other Writ Petitions including the

Writ Petitions in which Rule has been issued.

5. The principal contention of the learned counsel for the petitioners is that after a passage of almost 14 years the petitioners' Caste claim could not be referred to the Caste Scrutiny Committee. In the event if the Certificates on which the petitioners rely are invalidated, the same would cause prejudice to the petitioners, as the petitioners then would not be in a position to seek employment elsewhere on account of the age bar. The learned counsel for the petitioners relies upon two Division Bench Judgments of this Court reported in **1999(1) Mh.L.J.536** in the matter of **CHANDRABHAN YAMAJI NANDANWAR vs. DIRECTOR OF HEALTH SERVICES, MAH.STATE, BOMBAY and others** and Judgment of the Division Bench reported in **2002(4) Mh.L.J.365** in the matter of **ANIL VASANTRAO SHIRPURKAR vs. STATE OF MAHARASHTRA and others**. It has been held in the aforesaid two Judgments that a reference to the Caste Scrutiny Committee by the

employer should be made within a reasonable time and in the Judgment in **CHANDRABHAN'S Case** (Supra), it is held that if the person is appointed in the Government or Semi Government Organisation from the reserved Category availing the benefits extended to such Category in the employment, the employer is required to make a reference for verification of the Caste Certificate of such employee to the Caste Scrutiny Committee within a period of two years, which is normally prescribed for confirmation of services of the probation and if the reference is made after the period of two years, the same was held to be in violation of Article 14 of the Constitution of India being beyond a reasonable period. The Division Bench in **ANIL VASANTRAO SHIRPURKAR'S** case (supra) relied on the law laid down in **CHANDRABHAN'S** Case (supra) and also concluded that the person, who is appointed in the Government or Semi Government employment, normally remains on probation for a period of two years and before completion of the period of probation the

employer should initiate proceedings for reference of the Caste Certificate of such employee for verification by the Caste Scrutiny Committee.

6. After the said two Division Bench Judgments, the matter was referred to a larger Bench in view of the reference made in Writ Petition No.786 of 2002 by Order dated 3<sup>rd</sup> February, 2003 and in Writ Petition No.1598 of 2003 by Order dated 17<sup>th</sup> April, 2003, by the Division Benches sitting at Nagpur. Accordingly, the Full Bench of this Court has considered the said issue and after holding that the doctrine of reasonable time of two years is not mandatory in nature and is a rule of prudence as laid down by the Division Benches of this Court and therefore even from the said point of view there was no inconsistency as such with the Judgment of the Apex Court in **G. Sudarshan's (1995) 4 SCC 644** case the Full Bench has concluded that if there is delay in making reference for some valid reason, the reference made by the employer beyond

the period of two years is neither invalid nor any Order passed by the Caste Scrutiny Committee on such reference is null and void. The conclusion of the Full Bench is in paragraph 47 of the Judgment which is reproduced herein under.

47. A careful scrutiny of the judgments and the law laid down by this Court in cases of Chandrabhan Nandanwar's case (supra), Anil Shirpurkar's case (supra) and Prakash Pralhad Ingle's case (supra) as well as the law laid down by the Apex Court in cases of G. Sudarsan (supra) and Central Excise, Jaipur (supra), the conclusion, which we have arrived at the legal proposition which finally emerges, is summarized, in nutshell, as follows :

The employer/Government, is required to refer the Caste Certificate of its employee for verification to the Caste Scrutiny Committee as early as possible from the date of the order of appointment of such employee. However, if there is a delay in making reference for some valid reasons, the reference made by the employer beyond the period of two years is neither invalid, nor any order passed by the Caste Scrutiny Committee on such reference is null and void. In case of an employee, who has obtained a Caste Certificate by playing fraud, the

employer is entitled to refer the caste claim of such employee to the Caste Scrutiny Committee as and when such fraud is detected and the question of applying any kind of limitation in this regard does not arise.

We answer the reference accordingly, place the Writ Petitions before the Division Bench for disposal on merits.

7. In view of the Full Bench Judgment reported in **2003(4) Mh.L.J.233** in the matter of **PRAKASH NAMDEORAO KEDAR and others vs. UNION OF INDIA and others**, the petitioners cannot rely upon the Division Bench Judgments of this Court (Supra) in support of their contention that a reference to the Scrutiny Committee made after a period of two years of appointment is bad. Therefore, the submission advanced on behalf of the petitioners that a reference could not be made after a period of 14 years cannot be countenanced. At this stage, it would also be useful to refer to the Judgment of the Apex Court reported in **AIR 2005 SUPREME COURT 3395(1)** in the matter of **Bank of India and another v. Avinash D. Mandivikar and others**. In the said

Judgment the Apex Court has held that if the Caste claim is based on a fraud, then even though a reference is made belatedly, the same would not affect the legality of the reference made as fraud permeates the entire proceedings.

8. It is pertinent to note that none of the petitioners abovenamed have submitted their Caste Certificates to the respondent No.2, though each of them has been appointed in a post meant for the reserved Category, and even though the respondent No.2 has asked the petitioners to submit their Caste Certificates after almost 10 to 14 years of their employment, in view of the pronouncement of the Full Bench of this Court (Supra) as well as Judgment of the Apex Court (Supra), in our view, the action of the respondent No.2 cannot be faulted with. In our view, therefore, there is no merit in the above Writ Petitions, which are accordingly dismissed. Rule in all the above Writ Petitions to stand discharged.

9. However, the petitioners are granted time upto 31<sup>st</sup> October, 2009, to submit their Caste Certificates to the respondent No.2. The respondent No.2 shall thereafter refer the said Certificates to the concerned Caste Scrutiny Committee for verification and request the concerned Caste Scrutiny Committee to expedite the process of verification.

( R.M.SAVANT, J. )

( S.B.MHASE, J. )