

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4562 OF 2015

SAYYAD ASIF ABDUL
VERSUS
DIVISIONAL CASTE CERTIFICATE VERIFICATION COMMITTEE,
NASHIK AND ANOTHER

.....
Advocate for petitioner : Mr. H. A. Joshi
AGP for respondent/State : Mr. S. S. Tope
.....

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATED : 10th AUGUST, 2015

P.C. :-

1. Mr. Joshi, the learned counsel for the petitioner states that the caste claim of the petitioner as belonging to Chhapparband (VJ) is invalidated by the Committee. The learned counsel submits that the circular is issued by the Government in the year 2011 that for deciding the caste claim as Chhapparband, even the names as "Shah" and "Fakir" are relevant. The said aspect is not considered. The learned counsel submits that this Court, in writ petition No. 3680 of 2013, has considered the said aspect. According to the learned counsel, even the affinity test is not conducted. The learned counsel also relies on the judgment of the Division Bench of this Court in writ petition No. 3678 of 2012.

2. Mr. Tope, the learned AGP relying on the judgment of the Division Bench of this Court in **Sadeek Shaha Ramjan Shaha Vs. State of Maharashtra and others** reported in **2009 (3) Mh.L.J. 372**, states that the Fakir is a separate caste belonging to 'Other Backward Class' and Chhapparband is 'Nomadic Tribe'. The same may not be relevant.

3. We have considered the submissions. By perusing the judgment delivered by the Committee, it is clear that the Committee has not conducted affinity test and only on the basis of the vigilance report and that there are no old documents showing the caste of the petitioner or his predecessors or ancestors as Chhapparband, has rejected the caste claim.

4. Affinity test is also one of the important test to be considered while deciding the caste claim.

5. As the affinity test is not conducted, it is appropriate to remit the matter back to the Committee.

6. In light of the above, the impugned order is quashed and set aside. The matter is remitted back to the Committee. The Committee shall conduct the affinity test, so also, shall re-appreciate

the documents on record, the circulars and various judgments relied by the respective parties and decide the caste claim of the petitioner afresh. The petitioner shall appear before the Committee on 8th of September, 2015.

7. The writ petition is accordingly disposed of. No costs.

(V. K. JADHAV, J.)

(S. V. GANGAPURWALA, J.)

aaa/