

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

**WRIT PETITION NO.4297 OF 2000 WITH
CIVIL APPLICATION NO.4812 OF 2015**

Vishwambhar s/o Rachling Swami
Karmalkar, Died, through L.Rs.

- 1A) Nagesh s/o Vishwambhar Swami
Karmalkar, Age 49 years, Occ. Business,
- 1B) Umesh s/o Vishwambhar Swami
Karmalkar, Age 47 years, Occ. Service
- 1C) Kundabai w/o Vishwambhar Swami
Karmalkar, Age 68 years, Occ. Household

All R/o Hiralal Chowk, Beed,
Taluka and District Beed.

... PETITIONERS

VERSUS

1. The State of Maharashtra
2. The Caste Certificate Verification
Committee (through its Member
Secretary, the Divisional Social
Welfare Officer, Aurangabad Division,
Aurangabad), Aurangabad
3. The Collector, Beed.
4. The Tahsildar and
Taluka Executive Magistrate,
Beed.

(Respondents to be served through the
Govt. Pleader, High Court of Bombay,
Bench at Aurangabad)

... RESPONDENTS

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Shri A.M. Karad, Advocate for petitioner
Shri G.K. Thigale, A.G.P. for State
.....

CORAM: S.V. GANGAPURWALA AND
 A.I.S. CHEEMA, JJ.

DATED: 5th May, 2015.

ORAL JUDGMENT (Per S.V. Gangapurwala, J.):

1. Civil Application No.4812/2015 is filed for bringing on record the legal heirs of deceased petitioner.

2. Mr. Karad, learned counsel for the petitioner submits that, the Writ Petition is filed by the deceased petitioner assailing the judgment of the Committee, invalidating the caste claim of the deceased petitioner. After the Writ Petition is filed, the petitioner died on 31.10.2003. However, the applicants were not aware of the pending litigation. It was when the matter was listed for final hearing and the Advocate of the applicants communicated the applicants about the factum of pendency of the Writ petition, the applicants got the knowledge of the same. The learned counsel submits that, the Writ Petition concerns the social status of the petitioner, interalia the interim relief was operating in favour of the deceased petitioner.

3. We have also considered the Writ Petition.

4. The Writ Petition is assailing the rejection of the caste claim of the deceased petitioner, so also seeks protection in service. The petitioner, on the date of filing of the petition, had already retired as Assistant Director of Animal Husbandry. This Court has granted interim order. Even as per the judgment of the Full Bench in Arun Vishwanath Sonone Vs. State of Maharashtra, reported in 2015(1) Mh.L.J. 457, in case the claim is invalidated otherwise than on the ground of fraud or misrepresentation, and the appointment of a candidate is prior to 2000, such petitioner is entitled for protection in service. Even this Court has passed interim order to that effect.

5. As the petitioner is dead, no order can be passed in favour of the deceased petitioner with regard to issuance of validity certificate. Considering the above, we pass the following order :

6. Civil Application No.4812/2015 to the extent of bringing on record legal representatives of deceased petitioner is allowed. Amendment to be carried out forthwith.

7. The Writ Petition is disposed of. The employer shall not take any adverse against the deceased petitioner with regard to his service benefits only on the ground that his caste claim is

invalidated.

8. The judgment impugned in the present writ petition, passed by the Committee, invalidating the caste claim of the deceased petitioner shall not come in the way of the present applicants/ petitioners (legal heirs of deceased petitioner). In case the claim of present applicants/ petitioners is referred to the Committee for validation, the same shall be considered on its own merits in light of the evidence which may be produced by them, without being influenced by the judgment passed against the deceased petitioner. The judgment assailed in the present writ petition would not come in the way of the present applicants/ petitioners either for issuance of caste certificate or while considering their validation proceedings.

9. Rule accordingly disposed of. No costs.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)