

IN THE HIGH COURT OF JUDICATURE AT

BOMBAY

BENCH AT AURANGABAD.

WRIT PETITION NO.779 OF 2014.

Jagdish S/o Rameshwar Varma ... Petitioner.

Versus

Scheduled Caste, Vimukta Jatis
Nomadic Tribes, Other Backward
Class and Special Backward
Category Divisional Caste
Certificate Scrutiny Committee-2,
Aurangabad, Division Latur,
through its Member Secretary,
Latur and others. ... Respondents.

...

Mr.M.M.Patil (Beedkar), advocate for the
Petitioner.
Mrs.S.A.Dhumal, Asstt.Govt.Pleader for the State.

...

**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA, JJ.**

Date : 20.01.2015.

PER COURT :

1. Mr. Patil, the learned counsel for the petitioner states that, the petitioner was not afforded proper opportunity to put forth his case. The petitioner had filed

documents, however, the same were not considered while delivering the judgment on 26th September, 2012. According to the learned counsel said documents are relevant and material. The learned counsel submits that, pedigree has been proved by filing the affidavits. Even the vigilance report supports the case of the petitioner. The home inquiry also supports the case of petitioner. However on the ground that pedigree is not proved the Committee did not consider the case of petitioner.

2. The learned Assistant Government Pleader submits that, the Committee has considered each and every document produced on record and thereby has delivered the judgment. According to the learned A. G. P. the documents on record on which the petitioner is relying to prove his caste are of recent origin, however, there are no old documents substantiating the case of petitioner. Even the genealogy is not proved.

3. We have considered submissions canvassed by learned counsel for respective parties. It appears that, the

petitioner wanted to get the validity certificate as he was intending to contest the election. In fact, the haste was made by petitioner also. It is not disputed that the petitioner had filed the documents on 24th September, 2012. The judgment is delivered on 26th September 2012. The authenticity of the said documents was not gone into. The genealogy is to be proved as per Sec. 50 of the Evidence Act. It appears that, the vigilance has been conducted. The vigilance has nowhere come to the conclusion about the genealogy being suspicious. If the Committee was of the view that it is not satisfied with the affidavit filed on record to prove the genealogy, it could have asked the vigilance to verify the same. The said exercise has not been done. The documents which were filed subsequently for consideration have not been gone into. The document in favour of cousin grandmother is of the year 1952 stating the caste as Sonar. The affidavits are also on record to substantiate the relations. The Committee has observed that, the said relation is not proved. It could have got the relations verified, if it was

not satisfied with the affidavit filed on record.

4. Considering the above, the petitioner deserves to be given an opportunity to prove his case.

5. In the light of the above, the impugned judgment and order is quashed and set aside. The matter is relegated before the respondent/Committee for deciding the same afresh. The petitioner may file such other documents or affidavits to prove his case. The Committee if it so chooses can ask the vigilance to verify about the facts stated by petitioner. The petitioner shall appear before the Committee on 09.02.2015. The Committee shall thereafter decide the proceedings on its own merits afresh after hearing the petitioner. The writ petition is accordingly disposed of with aforesaid observations and directions. No costs.

(V. L. ACHLIYA, J.)

(S. V. GANGAPURWALA, J.)

With Best Compliments :

Justice Sanjay V.Gangapurwala.

Mrs.Sangeeta Sanjay Gangapurwala.

