

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

WRIT PETITION NO. 3702 OF 2014

Gopal Rameshwar Varma .. Petitioner

Versus

SC, VJ, NT, OBC and Special Backward
Category Divisional Caste Certificate
Scrutiny Committee - 2 .. Respondent

WITH

WRIT PETITION NO. 39 OF 2014

Omprakash Rameshwar Varma .. Petitioner

Versus

SC, VJ, NT, OBC and Special Backward
Category Divisional Caste Certificate
Scrutiny Committee - 2 .. Respondent

WITH

WRIT PETITION NO. 4630 OF 2014

Santosh Balaprasad Varma .. Petitioner

Versus

SC, VJ, NT, OBC and Special Backward
Category Divisional Caste Certificate
Scrutiny Committee - 2 .. Respondent

Shri M. M. Patil Beedkar, Advocate for the Petitioner in all matters.

Smt. S. A. Dhumal, A.G.P. for the Respondent in all matters.

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

DATE : 19TH JANUARY, 2015.

PER COURT :

. Mr. Patil, the learned counsel for the petitioners states that, the petitioners were not afforded proper opportunity to put forth their case. In Writ Petition No. 4630 of 2014 the notice was served on the day, when the Committee delivered the judgment. According to the learned counsel in other two writ petitions also on 24th September, 2012, the petitioners 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 petitioners. The home enquiry also supports the case of petitioners. However on the ground that pedigree is not proved the Committee did not consider the case of petitioners.

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 petitioners are relying to prove their caste are of recent origin, however, there are no old documents substantiating the case of petitioners. Even the genealogy is not proved.

3. We have considered submissions canvassed by learned counsel for respective parties. It is not disputed that in Writ Petition No. 4630 of 2014 the notice was served on the day when the judgment was delivered. Moreover, it appears that, the petitioners wanted to get the validity certificate as they were intending to contest the election. In fact, the haste was made by petitioners also. It is not disputed that in other two writ petitions i. e. Writ Petition No. 3702 of 2014 and Writ Petition No. 39 of 2014, the petitioners 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 petitioners deserve to be given an opportunity to prove their case.

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

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]