

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

**WRIT PETITION NO. 5466 OF 2014**

Sunita Sanjay Benade

.. Petitioner

**Versus**

The State of Maharashtra and others

.. Respondents

Shri S. B. Talekar, Advocate for the Petitioner.

Shri S. G. Sangle, A.G.P. for Respondent Nos. 1 to 3.

Shri Joshi, Advocate h/f Shri V. B. Patil, Advocate for the  
Respondent No. 4.

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

**DATE : 28TH APRIL, 2015.**

**PER COURT :**

. We have heard Mr. Talekar, the learned counsel for the petitioner, Mr. Joshi, the learned counsel for the respondent No. 4 and Mr. Sangle, the learned Assistant Government Pleader for respondent Nos. 1 to 3.

2. The petitioner assails the judgment of the respondent No. 2/Committee validating the caste claim of the respondent No. 4 as belonging to Pardeshi caste.

3. We have heard the matter for some time. One of the

objection of the petitioner is that, affinity test has not been conducted.

4. We have perused the judgment. The statements are recorded by the vigilance, however, from the perusal of the judgment it nowhere transpires that, the Committee has applied its mind and has considered the affinity test. The judgment is silent about it. The affinity test is an integral part of the proceedings and the same is also relevant for determining the caste claim of any party. It was also one of the contention of the petitioner that, the documents of 1915 in the name of the Jaysing was referred to an expert. Even the hearing was concluded and no opportunity was given to the petitioner to comment upon the report of expert.

5. As the affinity test is not conducted and nothing has been said by the Committee in respect of affinity and ethnic linkage, we are not entering into contentions of the respective parties on merits.

6. It will be appropriate to remit the matter back to the Committee for considering the affinity test, the ethnic linkage and thereafter decide the proceedings afresh. Of course, it would not be necessary for conducting any fresh vigilance, as the same is already conducted. At the most the Committee may examine

the affinity and ethnic linkage and hear the parties afresh. The petitioner and the respondent No. 4 are at liberty to put forth their contention in respect of their case.

7. In the light of the above, we pass the following order.

8. The impugned order is quashed and set aside. The matter is remitted back to the Committee for considering it as observed above in the present order. The parties shall appear before the Committee on 25.05.2015. As the date of appearance is given by this Court, it will not be necessary for the Committee to issue fresh notices to the parties. The Committee thereafter shall decide the proceedings expeditiously as per the directions given hereinabove and preferably within a period of four (4) months from the date of appearance. The Registry shall send back the original record immediately to the Committee. The writ petition as such is disposed of. No costs.

**[ A. I. S. CHEEMA, J. ]**

**[ S. V. GANGAPURWALA, J. ]**

bsb/April 15