

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 5032 OF 2013

Sayyad Khurshid d/o Sayyad Sattar,
Age 24 years, Occu. Service,
r/o Ajansonda (Bk), Taluka Chakur,
District Latur.

... PETITIONER

VERSUS

1. The Schedule Caste, Schedule Tribe,
Vimukta Jati, Nomadic Tribes, Other
Backward Class and Special Backward
Class Divisional Caste Scrutiny
Committee No.2, Aurangabad Division,
Latur through its Chairman.
2. The Divisional Controller,
Maharashtra State Road Transport
Corporation, Osmanabad Division,
Osmanabad.

... RESPONDENTS

WITH

WRIT PETITION NO. 5039 OF 2013

Sayyad Ajmiri d/o Sayyad Sattar,
Age 23 years, Occu. Service,
r/o Ajansonda (Bk), Taluka Chakur,
District Latur.

... PETITIONER

VERSUS

1. The Schedule Caste, Schedule Tribe,
Vimukta Jati, Nomadic Tribes, Other
Backward Class and Special Backward
Class Divisional Caste Scrutiny
Committee No.2, Aurangabad Division,
Latur through its Chairman.

2. The Divisional Controller,
Maharashtra State Road Transport
Corporation, Osmanabad Division,
Osmanabad.
3. The Depot Manager,
Maharashtra State Road Transport
Corporation, Gangapur Depot,
Gangapur, Dist. Aurangabad.

... **RESPONDENTS**

Mr. N.P. Patil Jamalpurkar, Advocate for the Petitioner.
Mrs.S.A.Dhumal, Advocate for Respondent.

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

DATE : 04th February, 2015.

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

1 Rule. Rule made returnable forthwith. Learned AGP
waives notice of Rule. With the consent of the learned counsel
appearing for the parties, the petitions are taken up for final hearing.

2 Both these writ petitions are based on same set of facts, as
such are decided together.

3 Mr. N.P. Patil Jamalpurkar, learned counsel for the
Petitioners states that the caste certificates of the Petitioners as
belonging to Kasar OBC were referred to the Committee for validation.
However, the Committee invalidated the said caste certificates without

considering the evidence on record in its totality. The school record of the father and uncle of the Petitioners also suggests that the caste is recorded as Kasar. The same are of the year 1964 and 1970. Even the marriage certificate of the father the Petitioners shows the caste as Kasar. The learned counsel submits that the Committee found the entry of the caste in the school record of the father and the uncle of the Petitioners in a different ink and on that ground only, has negated the case of the Petitioners. The learned counsel submits that there is no finding that the said entry in a different ink is at the behest of the Petitioners. The Petitioners are not in the custody of the said original record.

4 The learned counsel relies on the judgment of the Apex Court in a case of **Sayanna Vs. State of Maharashtra and others**, reported in **[(2009) 10 Supreme Court Cases 268]**. The learned counsel further submits that there is no single contra evidence on record. Even the home inquiry conducted by the Vigilance supports the case of the Petitioners.

5 The learned Additional Government Pleader submits that the school record of the father and uncle of the Petitioners is dubious. Those certificates are produced on record. However, the original is

called by the Committee and verified. It shows that the entry of the caste is in a different ink. The said is rightly considered by the Committee. The other evidence is of recent period and as such, has been rightly discarded.

6 We have considered the submissions canvassed by the learned counsel for respective parties and also gone through the record as produced.

7 There is not a single contra evidence on record. Nor a single document suggests that the Petitioners are belonging to some other caste. The home inquiry conducted by the Vigilance also supports the case of the Petitioners as belonging to Kasar caste.

8 The school record of the Petitioners also records the caste as Kasar. The school record of the father and uncle of the Petitioners also records the caste as Kasar. The Committee has observed that the caste Kasar is written in a different ink. However, there is no observation of any overwriting on it. The same cannot be attributed to the Petitioners, nor there is any finding of the same. Nor it can be presumed that the Petitioners are responsible for the same as has been held by the Apex Court in the case of *Sayanna (supra)*.

9 The marriage certificate of the father of the Petitioners also

shows the caste as Kasar. The vigilance has not stated anything adverse in respect of the said document.

10 Considering the consistent record and not a single contra evidence, the Petitioners have proved their case by preponderance that they belong to Kasar OBC.

11 In light of the above, we pass the following order:

- I. The impugned judgments passed by the Committee are quashed and set aside.
- II. The Committee shall issue validity certificates to the Petitioners as belonging to Kasar OBC.
- III. Rule is accordingly made absolute in above terms.
No costs.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

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