

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

WRIT PETITION NO. 5941 OF 2012

Shaikh Ajahar Akbar

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Vijay R. Autade, Advocates for the Petitioner.

Shri G. K. Thigle, A.G.P. for Respondent Nos. 1 to 4.

CORAM : S. V. GANGAPURWALA AND

A. I. S. CHEEMA, JJ.

DATE : 28TH APRIL, 2015.

PER COURT :

. The learned counsel for the petitioner submits that, the respondent/Committee invalidated the caste claim of the petitioner as belonging to Mujawar (O.B.C.) only on the ground that old record is not available. The learned counsel submits that, in the school record of the father of the petitioner in the column of cast Islam is stated. The learned counsel submits that the petitioner is relying on the old document that is Namumana No. 8 issued by the Gram Panchayat which refers in the name of owners column Mujawar. The same is referable to the grandfather of the petitioner. The learned counsel further submits that, in Shetwar Patra which is also an old document of 1332 Fasli and which is referable to the sister of great

grandfather of the petitioner the reference of Mujawar is made. According to the learned counsel these old documents have got high probative value and they were required to be considered. However, the Committee did not consider the said documents in its correct perspective. The learned counsel submits that, there is no contra evidence on record. Voluminous documents are produced on record, however, same have not been appreciated properly.

2. The learned Additional Government Pleader supports the judgment delivered by the Committee.

3. We have considered the arguments canvassed by the learned counsel for respective parties. The entry of Islam denotes the religion. The same may not be a contra evidence. However, on perusal of the judgment it is noticed that the Committee has nowhere considered the affinity and ethnic linkage. The committee is required to apply its mind regarding the affinity. From the judgment it is also nowhere clear that the Committee has considered vigilance report. The Committee is required to apply its mind on all these aspects of the matter. Only on the basis of the fact that, there are no old documents the matter is disposed of.

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

6. The impugned order is quashed and set aside. The matter is remitted to the Committee for considering it afresh. The committee shall consider the affinity, so also the vigilance and decide the proceedings afresh. The petitioner shall appear before the Committee on 25.05.2015. The writ petition according is disposed of. No costs.

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

[S. V. GANGAPURWALA, J.]

bsb/April 15