

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8601/2012

Nadeem Kha Abdul Kha Pathan
Age 26 years, Occ-Nil
R/o Sultanpura, Osmanabad
Tq.Dist.Osmanabad

..PETITIONER

Versus

- 1] The State of Maharashtra
Through its Secretary
Social Welfare Department
Mantralaya, Mumbai
- 2] The Divisional Caste Scrutiny
Committee no.2
Aurangabad Division,
Latur, Dist.Latur
- 3] The Deputy Collector/Sub Divisional Officer,
Paranda, Dist.Osmanabad.
- 4] The Superintendent of Police
Osmanabad
- 5] The Collector,
Osmanabad

..RESPONDENTS

...

Mr.Anandsing Bayas,Adv. for petitioner.
Mrs.S.A.Dhumal,AGP for respondent State.

...

**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA,JJ.
DATE : 21st January, 2015.**

ORAL JUDGMENT : [PER S.V.GANGAPURWALA,J.] :

Rule. Rule made returnable forthwith. With consent of parties, taken up for final hearing.

2] Mr. Bayas, learned counsel for petitioner submits that home enquiry supports case of the petitioner as also the vigilance report. According to the learned counsel, the consistent school record of the petitioner shows the caste as Pinjari. The learned counsel submits that the oldest record of the year 1921 is of the grand father of the petitioner wherein the caste of the grand father has been recorded as Pinjari. In the Birth and Death Register according to the learned counsel even in respect of cousin grand father of the petitioner the caste is recorded as Pinjari in the year 1956. All these documents, unequivocally show that the petitioner belongs to Pinjari O.B.C. However, the document in favour of real grand father of the petitioner has not been considered only on the ground that the record was not available. There was no signature of Police Patil. The then Police Patil has also filed affidavit stating that the entry has been taken. The entry in the Birth and Death Register of the cousin grand father of petitioner of the year 1921 has not been relied on the ground that the same is in different ink and that it is at the behest of the petitioner. The Apex Court in the case of

Sayanna Versus State of Maharashtra and others reported in 2009 (10) SCC 268 has also held that only because the entry is in different ink, there cannot be any suspicion.

3] Learned AGP submits that the entry of caste as against name of cousin grand father of the petitioner is in different ink, the entries prior to the said entry and subsequent entries are in different ink. The learned AGP submits that in the school record of the father of the petitioner the caste is stated as Muslim. There is no entry of Pinjari caste, the other evidence is of recent period, as such the same is not considered.

4] We have considered submissions canvassed by the learned counsel for respective parties and have also gone through record.

5] The consistent school record in the name of petitioner shows the caste being mentioned as Pinjari. Even the first page of the service book of the father of the petitioner denotes the caste as Pinjari. The entry in the Birth and Death Register of the real grand father of the petitioner of the year 1946 also states the caste as Pinjari. The committee has disbelieved the entry in the birth and Death register in respect of cousin grand father on the ground that same is in different ink. However, there is nothing on record to show that same is referable to the petitioner. That entry is not taken into consideration still the affinity test also supports the petitioner.

6] Considering the consistent record, the judgment of the committee cannot be sustained.

7] In light of above, impugned judgment and order passed by committee invalidating caste claim of the petitioner as belonging to Pinjari O.B.C. is quashed and set aside. The committee shall issue validity certificate in favour of the petitioner as belonging to Pinjari O.B.C. Rule accordingly made absolute in above terms. No costs.

V.L.ACHLIYA,J.

S.V.GANGAPURWALA,J.

umg/