

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

WRIT PETITION NO. 746 OF 2013

Yunus Mahemood Shah S/o Mohammad
Papashah,
Age : 37 Years, Occu. : Business,
R/o Sawangi, Tq. Gangapur,
District Aurangabad.

.. Petitioner

Versus

1. The State of Maharashtra,
Through it's Secretary,
Social Justice & Special
Assistance Department
Mantralaya, Mumbai - 400 032.
2. The SC, VJ.N.T. OBC and Special
BC Divisional Caste Certificates
Scrutiny No. 1, Aurangabad,
Through its Member-Secretary.
3. Sawangi Group Gram Panchayat,
Lasur Station, Tq. Ganapur,
District Aurangabad.
Through its Village Development
Officer.
4. Sub Divisional Officer,
Vaijapur, Tq. Vaijapur,
Dist. Aurangabad.

.. Respondents

Shri U. R. Awate, Advocate for the Petitioner.
Smt. S. A. Dhumal, A.G.P. for Respondent Nos. 1, 2 and 4.
The Respondent No. 3 is served.

**CORAM : S. V. GANGAPURWALA AND
V. L. ACHLIYA, JJ.
DATE : 03RD MARCH, 2015.**

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

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

2. Mr. Awate, the learned counsel for the petitioner submits that, the caste claim of the petitioner as belonging to Chappar Band (V.J.-A) category has been invalidated by the Committee only on the ground that there is no document produced prior to 1961. The learned counsel submits that, all the documents in respect of petitioner show the caste as Chappar Band. The Committee has not considered the case of the petitioner in proper perspective and only on the ground that, in one of the certificate in the column of caste Muslim is mentioned and in some places Chappar Band Fakir is mentioned, has negatived the claim. The learned counsel submits that, occupation of persons belonging to Chappar Band is to move out in groups and collect alms and that is why they are called Fakir. The learned counsel relies on the circular dated 24th December, 2002. According to the learned counsel, even vigilance report is in favour of the petitioner. The statements have been recorded by the vigilance of various persons, who have unequivocally supported the case of the petitioner. There is no contra evidence on record. Muslim being

religion same cannot be contra evidence. The learned counsel submits that, the judgment is delivered five months after the hearing took place.

3. The learned Assistant Government Pleader states that, the Committee has considered all the documents on record. There is no document on record prior to Presidential order of 1961. Some of the documents show the caste as Muslim Fakir. No affidavit is given of persons in whose favour validity is given.

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

5. We are not considering the validities granted in favour of two of the persons relied by the petitioner, as there is no affidavit filed showing the relations.

6. One school leaving certificate wherein, in the column of caste Muslim is mentioned, cannot be said to be a contra evidence. Muslim is a religion that has been stated, whereas in all other documents of the petitioner, his brother and sister and father Chappar Band Fakir or Chappar Band simplicitor is mentioned. The circular dated 24th December, 2002 comes to the aid of the petitioner.

7. We have also gone through the vigilance report and the various documents. The vigilance report supports the case of the petitioner. The statements of various persons recorded supports the case of the petitioner. There is not a single contra evidence on record. As such the impugned judgment of the committee cannot be sustained.

8. In the light of the above, the impugned judgment of the Committee is quashed and set aside. The respondent/Committee shall issue the validity certificate of Chappar Band (V.J.-A) category to the petitioner.

Rule accordingly is made absolute in above terms. No costs.

9. The original record is returned back to the learned Assistant Government Pleader.

Sd/-
[V. L ACHLIYA, J.]

Sd/-
[S. V. GANGAPURWALA, J.]