

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 4038 OF 2006  
WITH  
CIVIL APPLICATION NO. 1738 OF 2015 IN WP 4038/2006  
WITH  
CIVIL APPLICATION NO. 1740 OF 2015 IN WP 4038/2006

SHIVLING SHANKAR SWAMI  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for petitioner : Mr. S. B. Talekar  
Additional G.P. for respondent/State : Mr. K. G. Patil  
Advocate for respondent No. 2 : Mr. B. L. Sagar Killarikar  
Advocate for respondent No. 4 : Mr. S. S. Bora  
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**CORAM : S. V. GANGAPURWALA AND  
V. K. JADHAV, JJ.**

**DATED : 10<sup>th</sup> AUGUST, 2015**

**P.C. :-**

1. Mr. Talekar, the learned counsel for the petitioner submits that the caste claim of the petitioner, as belonging to "Mala Jangam" Scheduled Caste, has been invalidated. The learned counsel submits that there is not a single contra evidence on record. Vigilance has been conducted. All the documents produced on record show the caste as Mala Jangam. The said documents have been discarded only on the ground that they are of recent origin. The learned counsel submits that the affinity test and the home inquiry conducted by the Vigilance cell has not been considered by the Committee. According to the learned counsel, the second cousin of

the petitioner has also been issued validity certificate. The genealogy is placed on record and the same is proved. It was erroneous on the part of the Committee to observe that the relationship is not proved. The learned counsel submits that after filing the present petition, the petitioner could lay his hands on the old documents i.e. the Census Report of the year 1951 and the old Urdu document, of which, translation is also placed on record. The old Urdu document is of the Tahasil office which is a list of religious places. The name of the grand father of the petitioner appears at serial No. 175 and his caste is mentioned as Mala Jangam. According to the learned counsel, these documents unequivocally go to establish the caste of the petitioner as belonging to Mala Jangam.

2. The learned AGP states that the said documents which are sought to be produced before this Court were not before the Vigilance cell, nor before the Committee. The learned counsel submits that there is not a single old document which would establish the caste of the petitioner as belonging to Mala Jangam (SC). The relationship of the person, in whose favour the validity is issued, is not established. All these aspects have been considered by the Committee in its proper perspective.

3. We have considered the submissions canvassed by the learned counsel for the respective parties. The documents which are sought to be produced along with the Civil Application are the report of Census and the record of the religious places maintained by the Tahasil office. The translation of it is also filed on record.

4. These documents were not before the Vigilance cell. It is for the Vigilance cell to consider the authenticity of the said documents. The judgment also nowhere shows that the home enquiry and the affinity test has been conducted. Considering the aforesaid aspects of the matter, we are inclined to remit the matter back to the Committee for considering the additional documents filed on record so also to conduct the affinity test.

5. In light of the above, the impugned order is quashed and set aside. The parties are relegated before the Committee. The petitioner shall appear before the Committee on 8<sup>th</sup> September, 2015. The petitioner is at liberty to file additional documents such as the Census Report and the Urdu document along with its translation about the list of religious places. The petitioner shall file the original/certified copy of the aforesaid documents before the Committee. The Committee shall refer these documents to the Vigilance cell and after getting the report from the Vigilance cell, shall

decide the caste claim of the petitioner as belonging to Mala Jangam (SC) afresh. The petitioner is at liberty to file such additional documents. The Committee, after hearing the petitioner, shall decide his claim expeditiously.

6. The writ petition is disposed of. No costs. Civil Applications also stand disposed of.

**( V. K. JADHAV, J.)**

**( S. V. GANGAPURWALA, J. )**

aaa/