

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

31 WRIT PETITION NO. 10221 OF 2016

Arwez s/o Zakir Shaikh .. **Petitioner**
Age 18 years, Occu: Student,
R/o At Post Shahagad, Tq.
Ambad, Dist. Jalna,

VERSUS

1. The State of Maharashtra,
Through the Secretary,
Tribal Development Department,
Mantralaya, Mumbai 400 032
2. The Scheduled Caste, Vimukta
Jati Nomadic Tribes, Other
Backward Classes and Special
Backward Classes Caste
Certificate Scrutiny Committee
No.1, Aurangabad Region,
Aurangabad, through its Member
Secretary.
3. The Sub Divisional Officer, ... **Repondents.**
Jalna.

Mr. Amol Chalak i/by Talekar and Associates, Advocate
for the petitioner.

Mrs. M. A. Deshpande, AGP for respondents 1 to 3

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 18th October, 2016

JUDGMENT :

1. Heard the learned counsel for the parties.
2. Rule. Rule made returnable forthwith. With consent of parties, the petition is taken up for final

disposal

3. The petitioner had applied for caste certificate as belonging to Chhapparband, Vimukta Jati. The learned Sub Divisional Officer, Jalna rejected the said application. The petitioner filed an appeal before the Scrutiny Committee. The Scrutiny Committee dismissed the appeal. Aggrieved thereby, the present petition.

4. Mr. Chalak, the learned counsel for the petitioner states that the Committee has rejected the application seeking caste certificate of the petitioner as belonging to Chhapparband, Vimukta Jati solely on the ground that no documents prior to 1961 are produced on record. The learned counsel submits that the document of Nikahanama of the grandfather of the petitioner was produced on record, the same is of the year 1961. So also, Nikahanama of the father of the petitioner is also produced on record, it is of the year 1991 stating the caste Chhapparband. The learned counsel submits that apart from the aforesaid documents, there are other documents produced on record showing caste Chhapparband, such as school record of the petitioner so also school record of brother of the petitioner showing caste as Chapparband. School record

of the petitioner's father and uncle show the caste as Muslim. According to the learned counsel, there is no contra evidence on record. Even the Vigilance has found the said record to be genuine.

5. The learned AGP submits that since the old documents prior to 1961 are not produced on record and the other documents are of recent origin, the Committee and Sub-Divisional Officer have rightly considered the entire evidence on record and have rightly rejected the application of the petitioner.

6. While entertaining the application seeking caste certificate, long-drawn enquiry is not contemplated. The competent authority has to be prima facie satisfied with the documents produced on record. Prima facie, the vigilance has found the Nikahanama of the grandfather of the petitioner of the year 1961 showing caste as Chhapparband. Even Nikahnama of the year 1991 in respect of the father of the petitioner shows the caste as Chhaperband. The school record of the petitioner and his brother shows caste as Chhapparband. Entry of Muslim is the entry of religion and not of caste. Even otherwise, the caste certificate will have to undergo acid test of scrutiny

at the time of seeking validity of the said caste certificate.

7. Considering the aforesaid evidence on record, there is no impediment to allow the petitioner's application seeking caste certificate. In the result we pass following order:

O R D E R

- i. Impugned order is quashed and set aside.
- ii. Respondent No.3 shall issue caste certificate to the petitioner as belonging to Chhapparband, Vimukta Jati, expeditiously, preferably within two months from today.
- iii. Rule is made absolute accordingly. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)