

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

WRIT PETITION NO. 432 OF 2011

Pramod Gopalrao Mahabole died through
L.Rs. Megha Pramod Mahabole and ors. .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri T. M. Venjane, Advocate for Petitioners.
Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 to 4.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.
DATE : 21ST FEBRUARY, 2017.**

PER COURT :

. The caste claim of the deceased petitioner of Nhavi Banjara caste is invalidated.

2. Mr. Venjane, the learned counsel submits that, there were voluminous documents on record to show that the deceased petitioner belongs to Nhavi Banjara caste. The learned counsel submits that, the said documents have not been considered in its correct perspective. The learned counsel submits that, even vigilance report is not against the deceased petitioner. According to the learned counsel, even the deceased petitioner has properly passed the affinity test. It is submitted that, the deceased

petitioner was appointed in the year 1997. The service benefits of the deceased petitioner be protected.

3. Mr. Patil, the learned Additional Government Pleader for respondent Nos. 1 to 4 submits that, the school record of the deceased petitioner also shows caste as Nhavi and not Nhavi Banjara. The vigilance has verified original record and submitted report. No illegality has been committed by the Committee.

4. We have gone through the judgment delivered by the Committee. The Committee has considered vigilance report, wherein original school record of the deceased petitioner shows caste being recorded as Nhavi and not Nhavi Banjara. There is no documentary evidence substantiating that the deceased petitioner belongs to Nhavi Banjara. The Committee has also considered the home enquiry. The deceased petitioner even did not remain present for personal hearing.

5. Considering all the aforesaid aspects, the judgment of the Committee cannot be faulted with.

6. The deceased petitioner is appointed on 17.12.1997 and is subsequently regularized in service. The finding of fraud or misrepresentation does not appear from the judgment of the

Committee. The deceased petitioner as such would be entitled for the benefit of service protection.

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

8. The judgment of the committee invalidating the caste claim of the deceased petitioner as Nhavi Banjara is upheld. The service benefits which the deceased petitioner would have been entitled to are protected. The deceased petitioner would be entitled for protection in service inter alia all the consequential service benefits arising therefrom. The writ petition accordingly is disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]