

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

WRIT PETITION NO. 2333 OF 2013

Shrirang s/o Pandurang Khiradkar ... **Petitioner**
Age 40 years, Occu: Business,
R/o Tadegaon (Wadi), Tq.
Bhokardan Dist.Jalna

VERSUS

1. The State of Maharashtra,
Through the Principal Secretary,
Social Justice Department,
Mantralaya, Mumbai-32
2. The Scheduled Caste, Vimukta
Jati, Nomadic Tribe, Other
Backward Class and Special
Backward Category, Divisional
Caste Scrutiny Committee No.1,
Aurangabad Division,
Aurangabad.
3. Satish s/o Bansi Salve, ... **Respondents**
Age 23 years, Occu: Agri
R/o Tadegaon (Wadi), Tq.
Bhokardan, Dist. Jalna

...

Advocate for Petitioners : Mr. Shelke Shivaji T.
Addl. GP for Respondents 1 and 2: Mrs. M. A.
Deshpande
Advocate for Respondent No.3: Mr. D. B. Shinde h/for
Mr. M. S. Deshmukh

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

DATE : 30th January, 2017

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 caste claim of the petitioner as belonging to 'Khatik' Scheduled Caste has been invalidated. Aggrieved thereby the present petition.

4. Mr. Shelke, the learned counsel for the petitioner submits that, the vigilance had conducted home enquiry wherein, statements of various persons were recorded from different villages. All the persons have supported the case of the petitioner. They have specifically stated that the petitioner belongs to 'Khatik' Scheduled Caste. The learned counsel submits that business of the petitioner and his family is Khatik. The learned counsel further submits that even in the old revenue record of his uncle, the occupation is shown as Khatik. The learned counsel submits that subsequent to the filling of the present petition the petitioner could lay hand on the old school record of the real aunt of the petitioner showing caste being recorded as Khatik. The learned counsel further submits that mortgage deed was also found subsequently executed

in favour of the grandfather of the petitioner, in which the caste is recorded as khatik. According to the learned counsel vigilance has also not conducted the affinity text.

5. The learned AGP and the learned counsel for respondent No.3 submit that the vigilance report itself states that the persons who have given statements and the genealogy shown by the petitioner do not match and the same is not a proper genealogy. Even the school record of the petitioner and the other relatives of the petitioner has been manipulated. The Entry of Kalal has been scored off and in its place entry of Khatik has been made subsequently. According to the respondents, the Committee has rightly considered the said aspect.

6. We have considered the submissions canvassed by the counsel for the parties.

7. As far as the school record of the petitioner and the other relatives i.e Subhas Deorao, Ramesh Deorao and Uma Sitatram Khiradikar is concerned, this Court has called for the record and it has been found that earlier the entry in the caste column was

'Kalal' and same is scored off and entry of Khatik has been made subsequently. The Headmaster of the School has given the statement and he has stated that he had made that entry.

8. We have also gone through the vigilance report and judgment delivered by the Committee. On going through the vigilance report and the judgment of the Committee, it is manifest that the affinity test and ethnic linkage have not been conducted. It is true that the affinity test and ethnic linkage cannot be the sole ground to determine the caste, however, it is a corroborative piece of evidence. The petitioner has also subsequently, after the judgment of the committee, produced the mortgage deed allegedly executed in favour of the grandfather of the petitioner, the same is in Urdu and its translation is filed on record. It is for the Vigilance to consider the genuineness of the same. The Petitioner, subsequently, during the course of hearing of this petition, has placed on record the extract of the admission register of his aunt, wherein it is shown that the caste is recorded as Khatik. The Vigilance will have to confirm the

same by going through the original.

9.. Considering the fact that neither the Vigilance nor the Committee has conducted the affinity test nor has considered the ethnic linkage and subsequent documents filed on record which will have to be verified by the Vigilance, we relegate the parties to the Committee for decision afresh.

10. In the result, we pass following order:

O R D E R

- i. The impugned judgment is quashed and set aside.
- ii. The parties are relegated before the committee. The parties shall appear before the Committee on 15.02.2017.
- iii. The petitioner is at liberty to file additional documents. The Committee shall thereafter decide the proceeding afresh in the light of the observations made herein above.
- iv. Considering the fact that the matter is relegated back, the Committee shall expediti-

ously dispose of the proceeding, preferably within six months from the date of appearance of the parties.

11. Rule is accordingly made partly absolute. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC