

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

WRIT PETITION NO. 9132 OF 2016

SHAH MOHAMMED MAQDOOM MAHETABSAB
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Gastgar Santosh B.
AGP for Respondents 1 to 3 and 5 & 6 : Mr.
R.B.Bagul
Advocate for Resp. Nos. 7 and 8 : Mr. Sandeep
Swami, advocate h/f Mr. V.D.Gunale
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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 16th FEBRUARY, 2017

O R D E R :

Rule. Rule made returnable forthwith.
Taken up for final hearing with the consent of the
learned counsel for the parties.

2. Mr. Gastgar, learned counsel for the
petitioner submits that the claim of the
petitioner as belonging to Chhaparband was
referred to the Committee. The Committee, without
considering the documents on record in its correct
perspective, has invalidated the said claim. The

learned counsel submits that voluminous documents were produced on record to substantiate the caste claim of the petitioner, however, same is not considered. Even vigilance report is not against the petitioner. According to the learned counsel for the petitioner the petitioner had also submitted the traits as consistent with Chhaparband caste. The learned counsel in alternate submits that the services of the petitioner be protected.

3. Learned A.G.P. submits that contra evidence has been considered. In the school record of the petitioner, his caste is recorded in red ink. The contra evidence appears on record.

4. Learned counsel for respondent nos. 7 and 8 submits that the petitioner is still working with the respondent as Lab Attendant. We have considered the submissions canvassed by the learned counsel for the respective parties.

5. The Committee has invalidated the claim of the petitioner as belonging to Chhaparband. The Committee has observed that even as per the vigilance report, the home inquiry and the affinity, the petitioner could not prove his caste claim as Chhaparband. There is contra evidence on record. The Committee has considered all the evidence threadbare and has arrived at a plausible conclusion. No error has been committed by the Committee. The said judgment deserves to be upheld and same is hereby upheld.

6. The petitioner is appointed on 1.3.1990 as Lab Attendant and is continuously working as such since then. He is on the verge of retirement. It is accepted by the petitioner and respondent nos. 7 and 8 that the petitioner has never been promoted. The petitioner could not prove his caste because of lack of evidence. There is no fraud or misrepresentation on the part of the petitioner in obtaining caste certificate. In view of the judgment of Division Bench of this

Court in the case of **Arun Vishwanath Sonone vs The State of Maharashtra and others**, reported in **2015 (1) Mh.L.J. 457** the services of the petitioner can be protected. Hence, we pass following order.

7. The judgment of the Scrutiny Committee invalidating the caste claim of the petitioner is upheld. The petitioner shall not take any benefit of reservation in service or in any walk of life. The entry of this order be taken in the service book of the petitioner. The respondent nos. 7 and 8 shall not take any adverse action against the petitioner only because his caste claim is invalidated by the Scrutiny Committee.

8. Rule made absolute accordingly. No costs.

(K.L.WADANE, J.)

(S.V.GANGAPURWALA, J.)