

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

**WRIT PETITION NO. 4525 OF 2012
WITH
CIVIL APPLICATION NO.10982 OF 2017**

Prashant Rameshwar Swami .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

**WITH
WRIT PETITION NO. 4524 OF 2012**

Mahesh Rameshwar Swami .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

**WITH
WRIT PETITION NO. 9311 OF 2016**

Megha Rameshwar Swami .. Petitioner
Versus
Divisional Caste Certificate Scrutiny .. Respondents
Committee No.2 Aurangabad and Ors.

Mr.M.S. Deshmukh h/f. Mr.M.C. Swami, Advocate for the petitioners.
Mr.B.L. Sagar Killarikar, Advocates for the intervenor.
Mr.S.B. Pulkundwar, A.G.P. for respondent/State.

**CORAM : S.V.GANGAPURWALA &
S.M.GAVHANE, JJ.**

DATED : 03.10.2017

P.C. :-

1. The caste claim of the petitioners as belonging to Bedajangam - Scheduled Caste is rejected by the committee in the validation proceedings. Aggrieved

thereby, present writ petitions are filed.

2. Mr. Deshmukh, learned Counsel for the petitioners submits that the petitioners are not relying on documents at Sr.No.40 referred in the judgment of the committee, assailed in W.P. No.4524 of 2012. The learned Counsel also canvassed other submissions. We have heard Mr. B.L.Sagar Killarikar, learned Counsel for the one who has filed intervention application. We have also heard learned A.G.P.

3. Though arguments are canvassed on different aspects, it is observed that the Committee has nowhere considered the affinity test. Though the affinity test cannot be the sole ground to either validate or invalidate caste claim, however, the same is also relevant to be considered. On perusal of the entire judgment, it transpires that the Committee has nowhere considered the affinity test. In-fact, it has lost sight of the affinity test in the judgment. As far as contention of the petitioner that he is not relying on the document at Sr.No.40 referred to in the judgment of the committee, it is for the committee to consider said aspect.

4. As affinity test has not at all been conducted,

we set aside the impugned judgment and remit the matter back to the committee. The committee shall consider the affinity test and then after hearing the parties pass the order afresh. The parties can put-forth their contentions before the Committee afresh, as the members of the Committee who have delivered the impugned judgment may have now changed. As such fresh arguments will have to be canvassed on all the aspects. The parties shall appear before the Committee on 1st November, 2017. Considering the fact that the matter is remitted back, the Committee shall make endeavour to dispose of the proceedings expeditiously, preferably within six months. The writ petitions are accordingly disposed of. No costs.

5. It is made clear that we have not considered other aspects raised on merits.

6. In view of disposal of the writ petition, connected Civil Application stands disposed of.

[S.M.GAVHANE, J.]

[S.V.GANGAPURWALA, J.]