

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

WRIT PETITION NO. 10024 OF 2016

Vijay Bhaurao Wadikar

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri M. C. Swami, Advocate for the Petitioner.

Shri M. B. Bharaswadkar, A.G.P. for Respondent Nos. 1 and 2.

CORAM : S. V. GANGAPURWALA AND

K. L. WADANE, JJ.

DATE : 09TH MARCH, 2017.

PER COURT :

. Mr. Swami, the learned counsel for the petitioner submits that, two of the paternal cousins have been granted validity certificates. One has been granted validity certificate after the judgment of the Scrutiny Committee in the petitioner's case. The learned counsel submits that, all the record unequivocally shows caste of the petitioner as 'Malajangam' (S.C.). The learned counsel submits that, there is absolutely no contra evidence on record, still the claim of the petitioner has been invalidated.

2. Mr. Bharaswadkar, the learned Assistant Government Pleader submits that, the relationship of the paternal cousins has not been proved. The validity in favour of one of the paternal

cousin as claimed by the petitioner is of 1988, wherein vigilance was not conducted. The learned A. G. P. further submits that, whatever evidence is on record the same is of recent origin. There is no old record produced showing the caste of the petitioner as Malajangam.

3. We have considered the submissions canvassed by the learned counsel for respective parties.

4. The Committee has observed that, the petitioner has not proved the relationship of the cousin whose validity certificate is relied by the petitioner. In fact, vigilance has considered the record of the said paternal cousin and has found the said record to be genuine. The vigilance could have also commented upon the relationship with the paternal cousin.

5. It appears that, one Mr. Kalyan whom the petitioner claims to be another paternal cousin has been issued with the validity certificate after rejection of the caste claim of the petitioner. The same was not before the Committee. Even the petitioner has to establish relationship with the said Kalyan. The same can be done by the vigilance cell.

6. Upon perusal of the judgment of the committee, it transpires that, there is no other contra evidence on record. The

school record of the petitioner and his brother shows the caste recorded as Malajangam. Moreover, it also appears from the judgment that affinity test has not been conducted. Though affinity test is not the sole consideration, but it can be used as corroborative piece of evidence.

7. Considering above said conspectus of the matter, we set aside the judgment of the scrutiny committee invalidating the caste claim of the petitioner and relegate the petitioner before the Committee. The petitioner shall appear before the Committee on 30.03.2017. The petitioner may produce the validity certificate in favour of Kalyan. The committee shall verify the relationship of the petitioner with the said Kalyan and for that the Committee is at liberty to refer the matter to vigilance cell. Considering the record of said Kalyan as relied by the petitioner, the committee shall decide the caste claim of the petitioner expeditiously and preferably within a period of four (04) months from the date of appearance of the petitioner. The writ petition accordingly is disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]