

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

WRIT PETITION NO. 9573 OF 2016

Nagesh S/o Lachmansinha Thakur,
Age : 19 Years, Occu. : Student,
R/o At Post Laghul, Tal. Biloli,
Dist. Nanded.

.. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Tribal Development Department,
Mantralaya, Mumbai - 32.
2. The Scheduled Caste Certificate
Scrutiny Committee, No. 2,
Aurangabad Division,
Latur
Through its Member Secretary.
3. Directorate of Technical Education
Maharashtra State,
3, Mahapalika Marg,
Post Box No. 1967,
Mumbai - 400 001.
4. The Principal,
Padmabhooshan Vasantraodada Patil,
Institute of Technology,
Budhgaon (Sangli),
Tal: Miraj, Dist. Sangli-416304.

.. Respondents

Shri U. R. Awate, Advocate i/by Talekar and Associates, Advocate for the Petitioner.

Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 to 3.

The Respondent No. 4 served.

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

DATE : 19TH JANUARY, 2017.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. Rule. Rule made returnable forthwith. With the consent of parties, taken up for final hearing.

2. The caste claim of the petitioner as belonging to Rajput Bhamta (V.J.) is invalidated. Aggrieved thereby present petition.

3. Mr. Awate, the learned counsel for the petitioner submits that, there is absolutely no contra evidence on record. All the documents filed on record unequivocally establish the caste of the petitioner as Rajput Bhamta. The father of the petitioner is illiterate. The learned counsel submits that, the hearing in the matter was concluded on 10th December, 2015 and thereafter the impugned judgment came to be passed on 06th August, 2016 after lapse of eight months. There is total non application of mind on the part of the Committee. The vigilance cell report, affinity test and ethnic linkage has not at all been considered, nor discussed. On the said count also the impugned judgment and order is illegal and deserves to be set aside.

4. Mr. Patil, the learned Additional Government Pleader submits that, only because there is no contra evidence that may not be sufficient to establish the caste of the petitioner as Rajput Bhamta. There are various other aspects to be considered. The old documents have more probative value and not a single document is produced on record. The oldest document produced on record is of 1992. The same is of recent origin.

5. We have considered the submissions canvassed by the learned counsel for respective parties. It is not disputed that, hearing in the matter had taken place on 10th December, 2015 and the order came to be passed in August 2016. No doubt, there is a long slumber of eight months in hearing the matter and passing order. Coupled with the aforesaid aspects the vigilance has been conducted. The vigilance report has not at all be discussed, nor the affinity test and ethnic linkage appears to have been conducted or considered.

6. Considering the aforesaid aspects of the matter, the impugned judgment and order is quashed and set aside. The matter is relegated before the respondent No. 2 Committee. The petitioner shall appear before the Committee on 08th February, 2017. The Committee shall after giving opportunity to the petitioner of hearing and considering the vigilance cell report, affinity test and ethnic linkage decide the said proceedings

afresh expeditiously.

Rule accordingly is made absolute in above terms. No costs.

Sd/-

[K. L. WADANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/Jan. 17