

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12770 OF 2017

Shaikh Imadoddin Wajidoddin

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri S. M. Vibhute, Advocate for the Petitioner.

Shri P. S. Patil, Addl. G. P. for Respondent Nos. 1 to 4.

Shri Jayant R. Patil, Advocate for Respondent No. 5.

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

DATE : **24th November, 2017**

PER COURT :

1. The petitioner assails the judgment of respondent No. 2 – committee invalidating his tribe certificate of 'Takankar', Scheduled Tribe.
2. We have heard Mr. Vibhute, learned advocate for the petitioner and Mr. Patil, learned Addl. G. P. for the respondents.
3. Upon perusal of the impugned judgment it transpires that the claim of the petitioner is negated on the count that the caste 'Takankar' is included by the Government in Special Backward Category under notification dated 19th July, 2014.

4. The committee has also considered the vigilance report. The committee has also relied upon the affinity test and further that Takankars would not be found in Muslims.

5. The respondent has relied upon the Report of the Committee on the Amelioration of the Backward Classes in the Merged States Areas of the Bombay State to submit that Takankars were included in Special Backward Category. It is further submitted that the 'Takankar' is the sub tribe of 'Pardhi'. The respondents also relied on the notification issued by the Government in which Takankars belonging to Muslim community were included in Special Backward Class. The contention is, if, the Muslim Takankars are included in Special Backward Class by a separate notification in the year - 2014 after in depth research then the Takankars appearing in the Scheduled Tribe would not belong to Muslim community.

6. The petitioner has relied upon some literature dealing with Bombay Presidency to submit that even in Muslims Pardhis were recognized and if Takankars are the sub tribes of Pardhis, then Muslim Takankars would also belong to Scheduled Tribe. The petitioner has also relied on the documentary evidence to show that even pre-independence document depicts the tribe as Takankar.

7. The literature that is produced by the petitioner shows

that even Mohammedan Pardhis were available and the job of Takankars was making and repairing grind stones.

8. The literature is produced by the petitioner for the first time.

9. It is recognized that some Scheduled Tribes can be referable to even Muslims such as Tadvīs, Padvis. There is no dispute in respect of it. The literature will have to be gone into to come to the conclusion whether the Mohammedans also would belongs to Takankar tribe. More literature and research would be required.

10. As far as documentary evidence is concerned voluminous record is produced by the petitioner. It is clear that consistently even in pre-independence document in respect of the grandfather caste is recorded as Takankar and in respect of his father's as Muslim Takankar. There is not a single contra evidence.

11. The experts will have to dilate more about the traits and the factum of Takankars professing Muslim religion / Islam or otherwise.

12. The committee consists of experts and also a research officer. It would be appropriate if all this material is considered in detail and then the committee delivers a judgment considering all the literature and the material on the record.

13. We are remitting the matter back for reconsideration by the experts in view of the above reasons. The petitioner as it is now cannot be considered for admission in his professional course as the admissions are closed.

14. The impugned judgment is set aside. The matter is remanded back to the committee for decision afresh. The committee shall endeavour to decide the proceeding expeditiously. The parties are at liberty to place on record the additional material / literature before the committee which shall be considered by the committee while deciding the matter afresh. Same may be decided expeditiously and preferably by the end of April – 2018. The petitioner may appear before the committee on 11th December, 2017.

15. The writ petition is accordingly disposed of. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

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