

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

WRIT PETITION NO. 12683 OF 2016

Umesh S/o Guruling Kurvalkar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Sunil M. Vibhute, Advocate for the Petitioner.
Shri V. M. Kagane, A.G.P. for Respondent Nos. 1 and 2.
Shri U. B. Bondar, Advocate for the Respondent No. 3.
None appears for the Respondent No. 4 though served.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.
DATE : 03RD MARCH, 2017.**

PER COURT :

. The petitioner is appointed as a primary teacher on 31.01.1994 from the Scheduled Caste category. The petitioner claims to belong to 'Beda Jangam' (Scheduled Caste). The caste claim of the petitioner was referred to the Committee for validation. The Committee invalidated the caste claim of the petitioner. Aggrieved thereby present writ petition.

2. Mr. Vibhute, the learned counsel for the petitioner submits that, the documentary evidence on record clearly shows that the petitioner belongs to 'Beda Jangam' (S.C.) caste. The school

record of the petitioner and service record show the caste as 'Beda Jangam'. According to the learned counsel only on the ground that evidence was short, the Committee has invalidated the caste claim of the petitioner. There is no contra evidence on record.

3. The learned counsel in alternate submits that, there is no finding of fraud or misrepresentation. As such, the petitioner is entitled for protection of service in view of the judgment of the Full Bench of this Court in a case of **Arun Vishwanath Sonone Vs. State of Maharashtra and others** reported in **2015(1) Mh.L.J. 457**.

4. Mr. Bondar, the learned counsel for the Zilla Parishad submits that, the petitioner is appointed from the reserved category and is not entitled for the benefit of reserved category. The petitioner has been given promotional benefit after the year 2001.

5. Though the respondent No. 4/institution is served, none appears for the respondent No. 4/institution.

5. We have considered the judgment delivered by the Committee invalidating the caste claim of the petitioner. The Committee has observed that, the entry of Maratha was

appearing as was observed by the vigilance and there is difference in the hand writing of 'Beda Jangam' and 'Maratha'. No doubt, school record of the petitioner suggest the caste as Beda Jangam. However, there is no authentic evidence to come to the conclusion that the petitioner belongs to Beda Jangam (S.C.) caste. The judgment of the Committee as such cannot be faulted with and the same is required to be upheld and is hereby upheld. As there is no finding of fraud and misrepresentation and the petitioner is appointed prior to 2001, the petitioner is entitled for protection in service. The respondents shall not take adverse action against the petitioner only on the ground that the caste claim is invalidated. However, in case any promotional benefit as belonging to S.C. category is given to the petitioner, then the respondents are entitled to withdraw the said benefit. In that case the petitioner would not have any grievance thereof. The writ petition is accordingly disposed of with aforesaid observations and directions. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]