

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.580 OF 2017

Aarju Rahim Shaha

..Petitioner

Versus

State of Maharashtra

Through its Secretary, Social Justice

Department, Mantralaya, Mumbai-32 and others

..Respondents

**Mr. R. K. Mendadkar a/w Mr. Tanaji Jadhav, Advocate for the
Petitioner.**

Mr. C. P. Yadav, AGP for Respondent Nos.1 to 3.

**Mr. Vishal K. Jagwani i/by Mr. A. G. Kothari, Advocate for
Respondent No.4.**

CORAM : B. R. GAVAI &

B. P. COLABAWALLA, JJ.

DATE : 12th DECEMBER, 2017

PC.

1] Rule. Rule made returnable forthwith. Heard by consent.

2] The Petitioner has approached this Court being aggrieved by the order passed by the Respondent No.2 - Committee dated 24th May 2016, thereby rejecting the claim of the Petitioner belonging to Chhaparband which is notified as Vimukta Jati (De-notified Tribe).

3] We find that the Petition deserves to be allowed on two grounds.

The claim of the Petitioner's real sister namely Aasma Rahim Shaha of belonging to Chhaparband tribe has been held to be valid by the Scrutiny Committee vide its order dated 8th March 2013. The Division Bench of this Court in the case of Apporva d/o Vinay Nichale Vs. Divisional Caste Certificate Scrutiny Committee No.1 and others reported in 2010(6) Mh.L.J. 401, has held that whenever a claim of close relative of candidate belonging to a particular tribe held to be valid, the Caste Validity Certificate cannot be denied to such a candidate.

Apart from that a perusal of the Vigilance Cell report itself would reveal that Vigilance Cell claimed to be valid. The report states that the Petitioner's grandfather namely Mahetab Dagadu Shaha used to take alms so as to provide livelihood for himself and his family. It is further submitted that forefather of the Petitioner used to roam from village to village for seeking alms.

4] The various benches of this Court including in the case of Iqbal Shabbir Shah Vs. State of Maharashtra (Writ Petition No.338 of 2015) decided on 23rd November 2016 have held that the people belonging to Chhaparband Tribe used to have "Shah" as suffix to their name. It has further been held that the people belonging to Chhaparband Tribe were 'Fakirs' engaged in the profession of alms from the people by

roaming from village to village.

5] A perusal of the Vigilance Cell report reveals that the forefather of the Petitioner used to roam from village to village for taking alms. No doubt that the Caste Scrutiny Committee is not bound by the report of the Vigilance Cell, least that is expected is it should give sound and cogent reason for disagreeing with the same. Admittedly, the same has not been done. In that view of the matter, we find that the Petition deserves to be allowed. Rule is accordingly made absolute in terms of prayer clause (a). Caste Validity Certificate be issued to the Petitioner within a period of four weeks from today. Needless to state that all consequences shall follow.

[B. P. COLABAWALLA, J.]

[B. R. GAVAI, J.]