

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

WRIT PETITION NO. 10574 OF 2016

Shri Pradip Shankar Jotkar	}	Petitioner
versus		
Divisional caste Certificate	}	
Scrutiny Committee and Anr.	}	Respondents

Mr. Balasaheb R. Deshmukh for the petitioner.

Ms. Aparna D. Vhatkar - AGP for respondent nos. 1 and 2.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.**

DATED :- JANUARY 13, 2017

P.C. :-

1. The petitioner claims to be "Beda Jangam Scheduled Caste". That is duly notified as Scheduled Caste in the State of Maharashtra. The case of the petitioner is that he was appointed, against a post reserved for Scheduled Caste, by respondent no. 2. He was appointed on 4th July, 1992. Upon such an appointment, which was based on the caste certificate issued by the Tahsildar, Haveli, Pune, certifying the petitioner to be belonging to Hindu Beda Jangam, the employer of the petitioner forwarded this certificate for scrutiny and verification after the Maharashtra Act No. 23 of 2001 was brought into effect. The Vigilance Cell

conducted an inquiry and thereafter, the competent scrutiny committee duly complied with the principles of natural justice and invalidated the claim by the impugned order.

2. The impugned order categorically holds that the petitioner relied upon a document styled as School Leaving Certificate. In that, against the caste column, the entry is, according to the committee, "Hindu Lingayat", but there is overwriting or interpolation and in that regard, the committee found that an attempt was made to insert the words "Hindu Beda Jangam".

3. Mr. Deshmukh appearing for the petitioner would submit that the Vigilance Cell report could not have been relied upon to render this finding for that cell failed to conduct an affinity test. It did not make any inquiries with regard to the claim of the petitioner. It should have verified from the place of the residence/village of the petitioner the fact that the petitioner and his family is aware of the traits, practices and prevailing rituals amongst the Beda Jangam Scheduled Caste and whether the petitioner and his family members have knowledge of the same or have participated in any of the festivals, marriages of the community etc. Such an inquiry was imperative and in the absence of which, the whole attempt to pick and choose only one sentence from this report and reliance on a finding by the

committee is vitiated in law. The impugned order, therefore, deserves to be quashed and set aside.

4. We are unable to agree with Mr. Deshmukh for more than one reason. The committee was requested to scrutinise and verify the claim of the petitioner based on the caste certificate obtained by him. That was obtained to seek employment against a reserved post. The petitioner is appointed in public post. It is, therefore, all the more necessary that his caste certificate was scrutinised. The petitioner relied upon several documents and the same were made over to the Vigilance Cell so as to make a recommendary report. The Vigilance Cell visited the place where the petitioner and his family resided as also the surroundings. It found that the competent authority has issued the caste certificate. It found that the petitioner and his family have been residing in the State of Maharashtra before the cut-off date. Even the genealogy and family tree, as produced, is valid. However, though the witnesses are proclaiming that the petitioner and his family are Beda Jangam, one of the documents that the petitioner produced was the School Leaving Certificate. That carried an insertion against the caste column of the petitioner showing the petitioner belonging to Beda Jangam. However, the vigilance Cell, after inspecting the original School Register (General Register),

found that the entry therein does not match/tally with this insertion. The original School Register carries the entry, against the caste column, "Hindu Lingayat". It is this dichotomy and difference which led the committee to conclude that the petitioner's assertion as also his claim is not substantiated and proved. Whether the committee could have relied upon the entry in the General Register and gave it more weightage over the School Leaving Certificate is something which should not bother us in our writ jurisdiction. We are not a further appellate authority and sitting in judgment over the factual findings rendered in the committee's order. Once we find that such findings are not perverse or vitiated by an error apparent on the face of the record, we are nobody to interfere therewith. We have found that the committee did not deem it proper to rely upon the School Leaving Certificate produced by the petitioner himself. It may have been issued by that very school which the petitioner attended. However, once the Vigilance Cell visited the site and obtained, from the school authority, the requisite information, including the original General Register and perused the entries therein, then, its findings could surely have been taken into consideration. It is for the committee to decide which document should be relied upon or given more weightage. Once the committee proceeds on these lines, then, we do not deem it fit to

entertain the technical argument. The argument that the committee did not carry out the inquiry in terms of the Act and the rules and regulations and it failed to hold the affinity test, fails to impress us. In the given facts and circumstances of the present case, when the petitioner relies upon the entries in the School Leaving Certificate, then, the cross checking and due verification of the same, done by the Vigilance Cell and eventually by the committee enabled them to conclude as above. We do not find that in the facts and circumstances of the case, the committee's approach can be faulted for it has not acted arbitrarily or capriciously nor its findings and conclusions can be termed as perverse. There is no merit in the writ petition. It is dismissed.

5. At this stage, Mr. Deshmukh submits that the petitioner is to retire from service on attaining the age of superannuation after fifteen (15) months. On 14th September, 2016, this court, on due perusal of the record, directed that no coercive steps, based on the impugned order, shall be initiated against the petitioner. That order is continuing till date. Therefore, this order be continued further so as to enable the petitioner to remain in service or to take appropriate steps to challenge the committee's order and equally this order.

6. This request is opposed by Ms. Vhatkar appearing for the respondents.

7. Having found that the committee has rendered a factual finding that the petitioner produced a document, which was not reliable and no weightage could have been given to it, given the comparison made by the committee with the original documents, all the more we are not inclined to accept the request of Mr. Deshmukh. The request is refused.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)