

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

WRIT PETITION NO. 1586 OF 2017

Abdul Aqueel Abdul Jameel	... Petitioner
<u>VERSUS</u>	
The State of Maharashtra & Ors.	... Respondents

WITH
WRIT PETITION NO. 1588 OF 2017

Abdul Muheet Abdul Haque	... Petitioner
<u>VERSUS</u>	
The State of Maharashtra & Ors.	... Respondents

.....
Ms A. N. Ansari, Advocate for the petitioner
Mr R. B. Narwade, Advocate for respondent No. 3
Mr A. S. Shinde, AGP for respondent/State
.....

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.
DATE : 20TH FEBRUARY, 2018.**

ORDER:

1. The petitioners in both these petitions are uncle and nephew.

2. The caste claim of the petitioners as Momin (OBC) was referred to the Committee. The Committee invalidated the claim of the petitioners and aggrieved thereby, the present petitions.

3. Mrs. Ansari, the learned counsel for the petitioners submits that, the school record of the petitioners depicts the caste recorded as Momin. The learned counsel further submits that, even the grandfather of the petitioner was serving in Usman Shah Mill and was doing weaving. The occupation of Momin is weaving. The learned counsel further submits that, two of the blood relatives of the petitioners have been issued validity certificate of Momin (OBC). The name of the great grandfather of the petitioner is recorded as a member of Hatmag Society. The ancestors of the petitioners were carrying on occupation of weaving. The vigilance report also supports the case of the petitioner. The Committee has not considered all these aspects in its correct perspective.

4. The learned AGP submits that, the entry of Momin in the school record is of recent period. The validity granted to the two cousins of the petitioner is in the year 1996 and 1999. It is without vigilance being conducted. The learned AGP submits that, no old record has been produced to substantiate the claim of the petitioners' caste. The Committee has considered all the aspects of the matter. Even the relationship as is required is not proved.

5. We have considered the submissions.

6. After the validities of the cousins were produced, the vigilance is conducted. The vigilance has recorded the statement of the petitioner, the affidavit of the validity holders and has also conducted home enquiry. The vigilance has not doubted the relationship of the petitioners and the validity holders. The school record of the petitioner in WP No. 1588/2017 is of the year 1985 and that of the petitioner in WP No. 1586/2017 is of the year 1991. There is absolutely no contra evidence on record. In the home enquiry, the statements of the neighbourhood have been recorded which support the case of the petitioners.

7. The original school record of the petitioners show the caste of the petitioners as Momin. No contra evidence is recorded. The vigilance enquiry supports the case of the petitioners. Two of the blood relatives of the petitioners from paternal side have been issued the validity certificates. It also appears that, traits and the occupation of the ancestors of the petitioner supports the case of the petitioners.

8. Considering all the aforesaid aspects of the matter, the impugned judgment of the Committee is quashed and set aside. The Committee shall issue validity certificate of Momin (OBC) to the petitioners expeditiously, preferably within six weeks from today.

9. The writ petitions are, accordingly, allowed. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde