

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

24 WRIT PETITION NO. 8242 OF 2016

VISHAL JOSHEF WAGHMARE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

WITH

WRIT PETITION NO. 8262 OF 2016

VISHAKHA JOSHEF WAGHMARE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. D. K. Dagadkhair, Advocate for the Petitioners.

Mr. S. K. Tambe, AGP for Respondent Nos.1 to 3.

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

DATED : 20th AUGUST, 2018.

PER COURT:-

1. Mr. Dagadkhair, learned counsel for petitioners submits that the record maintained under the Birth and Death Register of the year 1924 records the caste of the grandfather of the petitioners as 'Mahar'. The same is pre-independence document. That document will have more probative value. The learned counsel submits that the petitioners real uncle's son namely Shimon Jaywant Waghmare has been issued with the validity certificate of 'Mahar' Scheduled Caste. The same

has not been considered by the committee.

2. The learned A.G.P. submits that during the vigilance, the father of the petitioners has clearly admitted that he follows the Christian Religion. The said evidence is against the petitioners. The report of the enquiry is clear. Even, the school record of the father of the petitioners does not mention caste as 'Mahar'. The father of the petitioners is literate person.

3. We have considered the submissions canvassed by the learned counsel for the respective parties.

4. No doubt, while considering the validation proceedings, the committee has to consider the entries, so also the home enquiry and the vigilance report. The entry in respect of the grandfather of the petitioners in the Birth and Death Register of the year 1924 appears to be 'Mahar'. The statement under the home enquiry has been considered. At the same time what was considered while issuing validity to the near relative of the petitioner is also required to be considered. The real uncle's son namely Shimon Jaywant Waghmare is shown to have been issued with the validity certificate of 'Mahar' Scheduled Caste. The same would be relevant aspects. Of course, whether the vigilance was conducted while issuing validity to him, so also record will have to be considered by the

committee. The same has not been considered in the present matter on the ground that reasons while giving validity are not placed on record. The committee could have called for record of the validation proceedings of Shimon Jaywant Waghmare.

5. In light of the above, the impugned orders are quashed and set aside. The parties are relegated before the committee. The petitioner shall appear before the committee on 05.09.2018. The committee shall call for the record of the validation proceedings of Shimon Jaywant Waghmare and so also Babasaheb/Balasaheb Vasant Waghmare. Thereafter, consider the relevancy of the said record and decide the proceedings seeking validity certificates of the petitioners afresh. The same shall be decided expeditiously, preferably within a period of six (06) months from the date of appearance of the petitioners.

6. Writ Petitions accordingly disposed of.
No costs.

(S. M. GAVHANE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE