

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

WRIT PETITION NO. 8496 OF 2016

Kum. Sonali d/o. Jaishankar Patil .. Petitioner
Age.27 years, Occ. Education,
R/o. C/o.V.B.Swami, Chetan Niwas,
Shivnagar, Latur, Tq. & Dist. Latur.

Versus

1. The State of Maharashtra .. Respondents
Through its Secretary,
Medical Education Department,
Mantralaya, Mumbai – 32.
2. Scheduled Caste, Vimukta Jati,
Nomadic Tribe, Other Backward Class
and Special Backward Class
Caste Certificates Verification Committee,
Committee No.2, Aurangabad Division,
Latur.
3. University of Health Science,
Vani Road, Mhasrul, Nashik,
Through its Registrar,
4. The Dean,
Chhatrapati Shahu Maharaj Shikshan Sanstha's
Dental College and Hospital,
Kamchanwadi, Paithan Road,
Aurangabad.

Mr.P.G. Rodge, Advocate for the petitioner.
Mrs.M.A.Deshpande, AGP for respondent/State.
Mr.P.R.Tandale h/f. Mr.S.B. Kakade, Advocate for
respondent No.4.

**CORAM : S.V.GANGAPURWALA &
S.M.GAVHANE, JJ.
DATED : 11.10.2018**

ORAL JUDGMENT [PER : S.V.GANGAPURWALA,J.] :-

1. Rule. Rule made returnable forthwith. With the consent of the parties, taken for final hearing.
2. The caste claim of the petitioner belonging to Beda Jangam – Scheduled Caste was referred to the Scrutiny Committee for verification. The Security Committee invalidated the caste claim of the petitioner. Aggrieved thereby the present writ petition.
3. Learned Counsel for the petitioner submits that initially caste claim of the petitioner was invalidated by the Committee under judgment and order dated 26.05.2010. The petitioner had challenged the same by filing Writ Petition No.5790 of 2010. This Court under order dated 07.02.2014 set aside the judgment of the

Committee and directed to consider the validity granted in favour of two real sisters of the petitioner. The Committee subsequently under the impugned order on the grounds which were set aside by this Court, has invalidated the caste claim of the petitioner. The learned Counsel submits that each and every document produced by the petitioner records caste as Beda Jangam – Scheduled Caste and there is no contra evidence on record. Two real sisters of the petitioner are issued with the validity certificate after conducting vigilance. Same has been brushed aside only on the ground that the petitioner has not produced documents based on which the validities are issued to the real sisters. Same ground was set aside by this Court in the judgment dated 07.02.2014 in Writ Petition No.5790 of 2010. Learned Counsel submits that the vigilance also supports the case of the petitioner. The report of the vigilance is in favour of the petitioner. The petitioner has also proved his affinity.

4. Learned AGP submits that the documents produced by the petitioner are of recent origin. There were no pre-independence era documents. The basis on which the validities are issued to the real sisters is not brought on record by the petitioner. In absence of old documents, case of the petitioner has rightly not been considered by the Committee. The revenue record also does not support the case of the petitioner. The Committee has considered the entire documentary evidence on record, the vigilance report and has rightly invalidated the claim.

5. The manner in which the Committee has passed the judgment cannot be appreciated. Initially the Committee had invalidated the caste claim and it discarded the validity certificate issued in favour of two real sisters of the petitioner on the ground that the petitioner has not placed on record the basis that was considered while issuing validities to the real sisters of the petitioner. Said judgment was set aside by this Court under judgment dated 07.02.2014 in Writ Petition No.5790 of 2010. The

Committee was directed to peruse the record of the proceedings granting validities to the real sisters. In the impugned order while invalidating the caste claim of the petitioner for second time, same reasons are mentioned. The Committee has not taken pains to even go through the record of the validity proceedings in case of real sisters of the petitioner.

6. It is a matter of record that two real sisters of the petitioner namely Arti Jaishankar Patil and Jyoti Jaishankar Patil have been issued with the validity certificate as belonging to Beda Jangam – Scheduled Caste. Even the vigilance has been conducted while issuing validity to real sister of the petitioner Arti Jaishankar Patil. Copy of the vigilance report in the said proceeding is also produced and considered by the vigilance in the present matter. Reference can be had of the same in the vigilance report submitted in the present case.

7. Upon perusal of the documents, it is manifest that all the documents on record suggests caste being recorded as Beda Jangam – Scheduled Caste. The vigilance has recorded that in the said entries of the caste, there is no interpolation or none of the entries have been scored off. The home inquiry also supports the case of the petitioner of Beda Jangam – Scheduled Caste. The Committee has not arrived at conclusion that the validity certificate issued to the real sisters of the petitioner is on the basis of inadmissible evidence or is obtained by fraud. Even the Committee has also not recorded any findings that the petitioner fails in the affinity test.

8. Considering all the aforesaid aspects of the matter, the impugned judgment cannot be sustained.

9. The impugned judgment is quashed and set aside. The Committee shall issue validity certificate to the petitioner of Beda Jangam – Scheduled Caste within a period of two weeks from today.

10. With these observations, the writ petition stands allowed. No costs. Rule made absolute accordingly.

[S . M . GAVHANE , J .]

[S . V . GANGAPURWALA , J .]