

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

BENCH AT AURANGABAD.

WRIT PETITION NO.12774 OF 2017

Irfan Mubarak Inamdar ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.S.S.Phatale, advocate holding for Mr.A.S.More,
advocate for the petitioner
Mr.A.V.Deshmukh, A.G.P. for the State.
Mr.M.H.Patil, advocate for Respondent No.4.

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**CORAM : S.V.GANGAPURWALA AND
A.M. DHAVAL, JJ.**

Date : 07.03.2018.

PER COURT :

1. The caste claim of the petitioner as Chapparband is negatived. Aggrieved thereby, the present petition.
2. Mr.Phatale, learned counsel submits that all the documents records Musalman in the

caste column. Musalman is a religion and not a caste. There is no contra evidence on record. The affinity was never conducted. In such cases, the affinity ought to have been conducted.

3. Mr.Deshmukh, learned A.G.P. submits that the petitioner ought to have proved by documentary evidence his caste. Fakir is a distinct caste. Even the traits are not brought on record by the petitioner to show that his ancestors used to do avocation practised by Chapparband. No error has been committed.

4. The order passed by the Committee nowhere considers the traits. Admittedly, there are no documents produced on record to depict the caste Chapparband being recorded. Everywhere in the caste column "Musalman" is recorded. The same is a religion and can not be ipso-facto considered as a contra evidence. In such cases where the evidence by way of documents is not on record and there is no contra evidence then in such cases the Committee ought to have considered affinity even in case of V.J. The same would

assist the Committee in coming to the right conclusion.

5. In light of the above, the impugned order is quashed and set aside. The petitioner is relegated before the Committee. The petitioner shall appear before the Committee on 21.3.2018. The Committee shall decide the proceedings afresh along with the documents expeditiously, preferably within a period of four (4) months from the date of appearance of the petitioner. The petitioner shall cooperate in expeditious disposal of the proceedings.

6. The petitioner may be allowed to prosecute his studies in 2nd year. The Respondent College and the University may take further action depending upon the judgment that would be delivered by the Committee in the validation proceedings.

7. The Writ Petition is disposed of. No costs.

(A.M.DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

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