

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

**WRIT PETITION NO. 8181 OF 2015
WITH
CIVIL APPLICATION NO. 15782 OF 2015
IN
WRIT PETITION NO. 8181 OF 2015**

Ajinkya Sudhakar Borkar ..PETITIONER

VERSUS

State of Maharashtra and Others ..RESPONDENTS

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Mr. V.J. Dixit, Senior Advocate i/b Mr. S.N. Patil, Advocate for petitioner.

Mr. V.S. Badakh, A.G.P. for respondent – State.

M. P.S. Dighe, Advocate h/f Mr. V.R. Dhorde, Advocate for respondent no.4.

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**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATED : 22nd NOVEMBER, 2018

ORDER :

The caste claim of the petitioner as Kunbi – OBC is invalidated.

Aggrieved thereby, the present writ petition.

2. Mr. Dixit, the learned Senior Counsel for the petitioner strenuously contended that initially Respondent no.2 - Committee had validated the caste claim of the petitioner as Kunbi – OBC. Same was

validated after conducting vigilance and considering the documentary evidence on record. Respondent no.4 had challenged the validity certificate of the petitioner by filing Writ Petition no. 1672 of 2014 on the ground that validity was issued without reasoned order. After remission of the matter before the Committee, the Committee had directed a fresh vigilance to be conducted. The fresh vigilance was conducted. The vigilance is in favour of the petitioner. The home enquiry also supports the case of the petitioner. All the witnesses, whose statements are recorded, have consistently deposed that the petitioner and his forefathers belong to Kunbi. The documents on record of pre-independence era support the case of the petitioner as belonging to Kunbi. The learned Senior Counsel submits that the Birth and Death Register of the wife of the great grandfather of the petitioner viz.:- Jiji Ghansham records her caste as Kunbi. The Birth and Death Extract of Nyaha, daughter of the great grandfather of the petitioner records caste as Kunbi. The said documents are of the year 1922.

3. The learned Senior Counsel submits that only because there is some discrepancy in the age, the documents cannot be discarded in toto. According to the learned Senior Counsel, the reason is also given in the Vigilance Report as to why the entry Maratha had appeared in some

documents. It is because the caste Kunbi was thought to be lower caste, therefore the entry of Maratha had been made. The vigilance has concluded that the petitioner and his grandfather belong to Kunbi caste. According to the learned Senior Counsel, the committee has not considered the vigilance report. The home enquiry that was conducted is in favour of the petitioner. The discrepancy in the age would not be the material to discard the documents in toto. So also, the discrepancy in the surname of the sister of Ghansham is relied upon. The documents produced clearly show that Somi is the daughter of Bala and her caste is recorded as Kunbi in the Death and Birth Register. The said document is also an old one. According to the learned Senior Counsel, these facts are not considered by the Committee. The evidenciary value of the old documents is also ignored and on the basis of an isolated entry, the caste claim of the petitioner could not have been invalidated.

4. The learned A.G.P. and Mr. Dighe, the learned Counsel for Respondent no.4 support the order.

5. We have considered the submissions canvassed by the learned Counsel for the parties, so also have gone through the record and the judgment delivered by the committee. It appears that twice the vigilance

has been conducted. The vigilance has verified the authenticity of the documents. The documents produced on record are found to be genuine.

6. It is not that the documents on record have not been considered. The documents such as the school record of the petitioner of the year 1999 records the caste as Hindu-Maratha. The service book of the father of the petitioner records caste as Maratha, so also, the documents such as Gav Namuna no.14 records the caste of Ghansham, the great grandfather of the petitioner, as Maratha. Caste of the wife of the great grandfather of the petitioner viz.:- Jiji would not be much relevant as her caste would be based on her maternal side. Moreover, there is discrepancy with regard to the age of Jiji, wife of the great grandfather of the petitioner, who is stated to have expired at the age of 12 years and her daughter, who also expired during said period, her age is shown as 8 years. No plausible explanation has been given for such discrepancy. As far as the record of Soni, daughter of Bala is considered, one entry shows her caste as Kunbi, whereas another entry recording her caste as Kunbi shows her surname as Ambekar, whereas the surname of Bala as Borkar. No explanation has been given about the said discrepancy also.

7. Moreover, the documents such as school record of the petitioner, service book of the father of the petitioner and the record of the great grandfather of the petitioner viz.:- Ghansham record the caste as Maratha. The petitioner certainly would get his caste from his parental side. In view of these documentary evidence, we do not find any illegality committed by Respondent no.2 – Committee in invalidating the caste claim of the petitioner. The home enquiry conducted would only be corroborative piece of evidence. In light of the contrary evidence on record showing the caste of the petitioner, his father and great grandfather recorded as Maratha. The Scrutiny Committee has rightly invalidated the caste claim of the petitioner as Kunbi caste.

8. In light of the above, no case for interference is made out. Writ petition is disposed of. No costs. In view of disposal of writ petition, civil application does not survive and same is also disposed of.

(R.G. AVACHAT, J.)

(S.V. GANGAPURWALA, J.)

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