

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5378 OF 2018

Guraiyya Shankarraiya Swami ... Petitioner.

V/s.

State of Maharashtra & 4 Ors. ... Respondents.

Mr. S. S. Patwardhan, Advocate, for the Petitioner.

Mrs. R. M. Shinde, AGP for the State.

**CORAM : RANJIT MORE AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATE : AUGUST 01, 2018

PC :

1 Heard Mr. Patwardhan, learned counsel for the
Petitioner and learned AGP for the State.

2 By this petition filed under Article 226 of the
Constitution of India, the petitioner is challenging the order
dated 31.03.2018 passed by Respondent No.1 - Sub Divisional
Officer, Mangalwedha, Dist. Solapur. By the said order, the
caste certificates given to the petitioner that he belongs to SC
and OBC categories respectively came to be cancelled.

3 On 18.03.2011, the petitioner obtained caste
certificate, that he belongs to "Beda Jangam" (Scheduled

Caste) from the Sub-Divisional Officer, Pandharpur. Then, in the year 2013, the petitioner again approached the Sub-Divisional Officer at Pandharpur and obtained a fresh caste certificate, showing that he belongs to Jangam (OBC Caste).

4 In the year 2012, the petitioner contested election of Nandur Grampanchayat from the seat reserved for OBC and got elected. In the year 2017, the petitioner again contested election for the post of “Sarpanch” from Scheduled Caste category. Thus, it is clear that for 2012 elections, the petitioner contested as OBC category candidate and that 2017 elections contested by the petitioner as SC category candidate.

5 The Petitioner's caste certificate, showing him to be Jangam (OBC Caste) was sent for scrutiny to the Caste Scrutiny Committee and this caste certificate is invalidated. A statement was made at the bar that the petitioner's caste certificate that he belongs to Beda Jangam (SC) is also sent for scrutiny to the Caste Scrutiny Committee, and the enquiry in regard to the same is pending before the said committee.

6 The impugned order is passed by the Sub-Divisional Officer at Mangalwedha on the complaint of one Damu Laxman Kamble, after the complainant was heard and the opportunity of hearing was also given to the petitioner. By the impugned order, both the certificates obtained by the

petitioner that he belongs to SC and OBC categories respectively came to be cancelled. In our opinion, at least, the petitioner himself must be knowing about his own caste. The petitioner was surely aware about his caste and despite this, initially he obtained caste certificate, showing that he belongs to OBC caste and contested the elections on a seat reserved for OBC category. At later stage, that is, in the year 2017 when the post of “Sarpanch” was reserved for scheduled caste, the petitioner again approached the competent authority and obtained a caste certificate, showing him to be Beda Jangam which falls in scheduled caste category. On the basis of these certificates he contested the elections and got elected.

7 It is evident that the petitioner has obtained both caste certificates fraudulently by mis-representation and not only that but he has also mis-used the same and participated in the election to the post which was reserved for the OBC and SC category respectively. The petitioner thereby deprived of genuine candidates those belonging to OBC and SC categories.

8 In these circumstances, we are not inclined to exercise our jurisdiction under Article 226 of the Constitution of India.

9 Mr.Patwardhan, learned counsel for the petitioner, further submits that the validity of the caste certificate that the petitioner belongs to Beda Jangam is pending before the Caste Scrutiny Committee. This submission is without any merit in as much as because of the cancellation of the caste certificate, its validity and proceedings before the Caste Scrutiny Committee will render infructuous. Mr. Patwardhan also submits that the Sub- Divisional Officer has no authority to cancel the caste certificate especially when the proceedings regarding validity thereof pending before the Caste Scrutiny Committee. We are unable to accept this submission inasmuch as we find that the said caste certificate was obtained by the petitioner by playing a fraud on the authority and the fraud vitiates everything and, therefore, the Sub-Divisional Officer was justified in cancelling the said caste certificates.

10 Taking totally of the facts and circumstances into consideration, we are not inclined to entertain the petition. It is rejected in toto. Ordered accordingly.

(SMT. ANUJA PRABHUDEDSSAI,J.)

(RANJIT MORE,J.)

.....