

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7125 OF 2018

Khalida Rafik Fakir

...Petitioner

vs.

The State of Maharashtra and Others

...Respondents

Mr. S.G. Deshmukh a/w. Mr. D.B. Shinde, for the Petitioner
Mr. Pralhad Paranjpe, for Respondent No. 7.
Ms. Ashwini Purav, AGP for Respondent Nos. 1 to 4.

**CORAM : SHANTANU S. KEMKAR &
SARANG V. KOTWAL, JJ.**

DATE : SEPTEMBER 03, 2018

P.C.:

. Leave to amend so as to add Mr. Pravin Suresh Jadhav as Respondent No. 7 is granted. Amendment to be carried out forthwith.

2. With consent of the parties heard finally.

3. Challenging the order dated 12th June, 2018 passed by the Respondent No. 2 – District Caste Certificate Validity Committee, Kolhapur (in short “the Committee”) whereby the Petitioner's claim for validation of her caste as “Fakir – OBC” has been rejected, the Petitioner has filed this Petition under Article 226 of the Constitution of India.

4. The grievance of the Petitioner is that though he had

submitted the pre constitutional document to show that his great grand father was belonging to “Fakir”, the same has been ignored by the Committee by observing that the said document is not a public document. He submits that the pre constitutional document has not been given due weightage and it cannot be rejected and brushed aside so lightly as has been done by the Committee. The reasoning of the Committee according to him, is unsustainable.

5. On the other hand, the learned AGP as also the learned counsel for Respondent No. 7 submits that the decision of the Committee is appropriate and it needs no interference.

6. Having considered the submissions made by the learned counsel for the parties and having gone through the impugned order and the said document, we are of the view that the authenticity of the said document and appreciation of it ought to have been done by the Committee in accordance with law and the Committee should not have rejected the said document only on the ground that it is not a public document. The said document being pre constitutional document, its correctness ought to have been gone into by the Committee by conducting appropriate vigilance in regard to that.

7. Keeping in view the aforesaid, we are of the view that

the impugned order passed by the Committee cannot be sustained.
The same is hereby quashed and set aside.

8. The matter is remanded back to the Committee for deciding the Petitioner's caste validity claim afresh in accordance with law keeping in view the said document which is already on record at Sr. No. 8 as referred in the impugned order.

9. The decision as aforesaid be taken by the Committee as expeditiously as possible in accordance with law within four months from the date of appearance of the Petitioner and the private Respondents before the said Committee.

10. The parties are directed to appear before the Committee on 24th September, 2018 at 11.00 am.

11. The interim order if any stands vacated.

12. The Petition is disposed of as such.

(SARANG V. KOTWAL, J.)

(SHANTANU S. KEMKAR, J.)