

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

WRIT PETITION NO.3474 OF 2017

Ata Ur Rehman Shah s/o. Hafeezur Rehman Shah, .. Petitioner
Age. 19 years, Occ. Student,
R/o. Shivaji Nagar, Near Christian Graveyard,
Jalgaon, Dist. Jalgaon.

Versus

1. The State of Maharashtra .. Respondents
Through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai – 32.
2. Caste Scrutiny Committee No.1,
Nashik Region, Nashik,
Through its President.

Mr. Hrishikesh A. Joshi, Advocate for petitioner.
Mr. P.N. Kutti, AGP for respondent/State.

**CORAM : SUNIL P.DESHMUKH &
S.M.GAVHANE,JJ.
DATED : 27.08.2019**

ORAL JUDGMENT : [PER : SUNIL P. DESHMUKH, J.] :-

1. Rule. Rule made returnable forthwith, heard finally with the consent of the parties.

2. Succinctly stated, it appears that petitioner is putting stress on validity certificates issued to persons who he claims to be his real cousins. Learned counsel Mr. Hrishikesh A. Joshi purports to submit that while genealogy

had been tendered by his mother, who had appeared before respondent No.2 - committee as guardian of minor petitioner, she could not appreciate significance of giving genealogy for claiming petitioner to be from "*Chapparband*" community. It has been referred to that genealogy had been submitted by mother of petitioner right across during hearing on demand and it refers to only lineal descendency of a single branch. Learned counsel also refers to certain caste certificates issued in favour of his cousins as well as validity certificates in respect of a few of them. In the circumstances, genealogy submitted during the course of hearing did not disclose relationship with validity holders and the same would be required to be verified. He also refers to genealogy and affidavit filed by said persons and contends that in the circumstances matter will have to re-appreciated by scrutiny committee by following due procedure.

3. Learned counsel for petitioner during submissions has referred to an order passed in writ petition No. 9377 of 2018, contending that situation involved in said matter is not only similar but almost same and since same issue arises in present petition, it should receive similar treatment.

4. From the proceedings, it appears that verification of relationship of these persons – validity holders with petitioner could not take place.

5. Genealogy as submitted on affidavit of cousins refers to petitioner.

Reference to section 50 of Evidence Act, may be pertinent. Committee may have to verify relationship, as reliance is being placed on validity certificates and genealogy as referred to in petition. This exercise will have to be carried by at the level of committee.

6. In view of above said, we deem it appropriate to set aside impugned judgment and order passed by respondent No.2. Petitioner shall approach committee on 16-09-2019. Committee may proceed with verification of relationship and/or petitioner may prove his relationship with validity before committee and thereupon committee shall take decision afresh. Committee may go through record of validity holders and evidence considered therein and decide claim of petitioner on merits expeditiously, preferably within a period of four months from the date of appearance of petitioner.

7. Rule made absolute accordingly. Writ petition is disposed of.

[S.M.GAVHANE,J.]

[SUNIL P.DESHMUKH,J.]