

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

36 WRIT PETITION NO.3749 OF 2018

SANDIP BHASKARRAO DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Sr. Advocate for Petitioners : Mr. V.D. Hon with Mr. Hon Ashwin V.
AGP for Respondents/State : Mr. A.R. Kale
Advocate for Respondents : Mr. Bhide Vinod Y.

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**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**
DATE : 03.06.2019

PC. :-

The caste claim of the petitioner as belonging to 'Kunbi' was referred to the committee. The committee invalidated the caste claim of the petitioner, aggrieved thereby the present petition.

2. Mr. Hon, the learned senior counsel for the petitioner submits that the committee has not properly appreciated the genealogy and the documents on record. The vigilance inquiry has been conducted it supports the case of the petitioner. The documents produced by the petitioner were referred to the vigilance. Vigilance has also considered the genuineness of the said documents. The genealogy filed by the petitioner on record has been proved. It is due to inadvertence the name of Kashinath was not originally shown in the genealogy subsequently the same has been shown. The rest of

the genealogy is true and correct even as per the statement.

3. The learned senior counsel further submits that the pre-independence record will have more evidential value. The sister of the grandfather of the petitioner namely Zuni has died in the year 1914 and her death certificate also records caste as 'Kunbi'. The same is also produced so also the death certificate of one Kashinath the cousin grandfather of the petitioner of the year 1901 records caste as 'Kunbi'. The old documents will have more evidential value than the recent documents. The old documents would prevail. The home inquiry has also been conducted by the vigilance and the statements of villagers also support the case of the petitioner. The death certificate of Zuni and Kashinath could not have been discarded only on the ground that the surname has not been mentioned. It was not the practice in the villages to mention the surname.

4. The learned senior counsel further submits that the threadbare examination of the documents would demonstrate that the petitioner belongs to 'Kunbi OBC'.

5. The learned A.G.P. supports the order passed by the committee and submits that the school record of the petitioner and his father records caste as 'Maratha'. The genealogy has not been proved. The relationship of Zuni and Kashinath with that of the petitioner has not been proved. In

absence of name of the village and the surname the relationship also cannot be established.

6. We have considered the submissions canvassed by the learned counsel for respective parties, so also have gone through the record and the judgment of the committee. The petitioner would get his caste from his father. The school record of the father of the year 1969 records caste as 'Maratha' (Non backward). The school record of the petitioner of the year 1988 of Zilla Parishad Primary School, Nimon, Tq. Sangamner dated 11.06.1988 records caste as 'Hindu Maratha'. The another school record of the petitioner dated 14.06.1993 of Yashwant Vidhyalay, Nimon records caste as 'Hindu Maratha'. The petitioner, his father were professing Maratha Caste and its traits.

7. The committee has considered the death certificate of Zuni and Kashinath. It has been observed that both these documents were in Devanagari script. However, considering them to be in Modi script the translation was submitted in Marathi. It has been observed that the name of Kashinath was not shown in the genealogy produced by the petitioner. Initially, even in the statement recorded by the vigilance of the petitioner the petitioner nowhere mentions Kashinath to be his cousin grandfather. Moreover, it has also been observed that the record produced by the petitioner of Zuni and Kashinath does not mention the surname, the name of the village

and the serial number of the certificate.

8. In view of the contra evidence on record in the nature of the school record of the petitioner and his father and so also the discrepancies as noted above the committee has not committed any error in negating the case of the petitioner.

9. In light of the above, the writ petition is dismissed. No costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]