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

WRIT PETITION NO. 2004 OF 2019

Alim S/o Ayyub Shah
Age: 29 years, Occ.Nil,
R/o Shivrai, Tq.Vaijapur,
Dist. Aurangabad

..PETITIONER

VERSUS

1. The State of Maharashtra
Through Social Justice
and Special Assistance Department
Mantralaya, Mumbai.
2. District Caste Scrutiny Committee,
Aurangabad.
Through its Secretary
3. The Sub-Divisional Officer,
Vaijapur, Tq. Vaijapur,
Dist. Aurangabad

..RESPONDENTS

Mr H. A. Joshi, Advocate for petitioner;
Mr A. R. Kale, A.G.P. for respondents

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 5th March, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. Learned Counsel for the petitioner, at the outset, orally prays for an amendment/correction in the petition. The oral prayer is allowed. Amendment be carried out forthwith.

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3. Considering the issue raised in the petition, the petition is taken up for hearing/disposal at the stage of admission.

4. Issue notice to respondents, returnable forthwith.

5. Learned Asstt. Govt. Pleader waives service of notice for all the respondents.

6. This is one of numerous petitions filed in this Court and considered by us, wherein the Sub Divisional Officer rejects the application for issuance of caste certificate. The order of the Sub Divisional Officer is challenged by preferring an appeal before the Scrutiny Committee. The Scrutiny Committee by dismissing appeal, confirmed the order of the Sub Divisional Officer/Sub Divisional Magistrate. The Committee, in its decision, acts as if it is supposed to undertake an exercise of in-depth probe or in-depth assessment of evidence. As the Committee would do it in the case of validation of certificate, time and again, this Court in the judgment and orders apprised of the Committee that the Sub Divisional Officer and the Committee to consider the material for its prima facie satisfaction of the genuineness of the documents when the party or the person approaches the officer or the Committee for issuance of the caste certificate or tribe certificate. This Court also observed that the Scrutiny Committee is not

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prevented to undertake an exercise of in-depth probe of the material for its satisfaction for validation of certificate. It seems that the observations of this Court fell on deaf ears of the Committee, as such, time and again this Court has to pass identical and similar orders.

7. Thus, it may not be necessary for us to refer to the facts in details, suffice it to say that the petitioner submitted an application to the Sub Divisional Officer along with the documents to issue certificate that the petitioner belongs to 'Chhapparband' community and necessary certificate be issued to him. The Sub Divisional Officer raised a ground that no substantive material in the form of the academic certificates either of the petitioner or his nearest relatives are placed on record. Then the Sub Divisional Officer raises another ground that the documents submitted by the petitioner only refer to the name "Shah Alim Ayyub" and religion "Muslim", but there are no entries to show that these persons are "Fakir".

8. Being aggrieved by the order, the petitioner had approached the Scrutiny Committee. The petitioner submitted as many as 22 documents before the Committee including two validity certificates issued in favour of his nearest relatives. These certificates are issued in favour of Shah Akbar Shah Gulab on 27th February, 2015 and in favour of Shah Rukiya Yunus on 31st May, 2013. A specific reference is made to these two relatives in the genealogical tree submitted to the Committee by way of an affidavit. A copy of the affidavit is also placed on record at page 17 of the petition.

9. The Committee confirmed the order of the Sub Divisional Officer accepting the ground raised by the Sub Divisional Officer. The Committee assigned the reason that the petitioner failed to submit documents prior to 1961. The second ground raised by the Committee that the documents submitted by the petitioner only refer to the entry as "Fakir", whereas the petitioner submitted an application for issuance of certificate that he belongs to 'Chhapparband' community. The Committee, while considering the validity certificate issued in favour of the nearest relatives of the petitioner i.e. cousin brother and sister, observed that the original record was called and in the original record, it revealed that these two persons, namely, Shah Akbar Shah Gulabnabi and Shah Rukiya Yunus failed to submit any document to show that they are belonging to Chhapparband community. Firstly, the Committee insisted for the documents prior to 1961. This insistence by the committee was certainly contrary to the observations of this Court that the Committee to satisfy itself primarily on the genuineness of the documents when the claim is for issuance of certificate. The committee expanded its scope for rejection or dismissal of the appeal in this first ground. The other ground for non consideration of the validity certificate of the nearest relatives is also reflecting in-depth probe by the Committee, which is again contrary to the observations of this Court.

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10. We may again refer to the observations of the Division Bench of this Court in the order dated 18th October, 2016, passed in Writ Petition No.10221 of 2016. These observations are thus:

“While entertaining the application seeking caste certificate, long-drawn enquiry is not contemplated. The competent authority has to be prima facie satisfied with the documents produced on record. Even otherwise, the caste certificate will have to undergo acid test of scrutiny at the time of seeking validity of the said caste certificate”

11. Considering the above referred facts, we are of the opinion that learned Counsel for the petitioner has made out a case. The petition is accordingly allowed in terms of prayer clause (A). The order dated 31st May, 2017 passed by respondent No.3 - Sub Divisional Officer, Vaijapur, Aurangabad and the order dated 17th July, 2018, passed by respondent No.2 - Committee are quashed and set aside.

12. Respondent No.3 - Sub Divisional Officer is directed to issue caste certificate to the petitioner, as expeditiously as possible and not later than six weeks from the date of the order of this Court.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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