

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12625 OF 2018

Mohammad Shahed Abdul Saber

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. G.R. Syed, Advocate for Petitioner
Mr. S.G. Karlekar, Assistant Government Pleader
for Respondent Nos. 1 and 2

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 27th FEBRUARY, 2019

ORAL ORDER:

1. The caste claim of the petitioner as belonging to Momin of Other Backward Class is invalidated.
2. Mr. Syed, the learned Counsel for the petitioner submits that the Committee did not conduct vigilance. Thus, school record of the petitioner depicts caste recorded as Momin. The record of the grandfather of the petitioner records Musalman in the caste column. According to the learned Counsel, Musalman is a religion and not the caste. That cannot be construed as adverse entry.
3. We have heard Mr. Karlekar, the learned Assistant Government Pleader.

4. It is not disputed fact by the learned Assistant Government Pleader that the matter was never referred to the vigilance nor any home enquiry was conducted.

5. The documents were on record depicting caste recorded as Momin. In such circumstances, it was incumbent upon the Committee to conduct vigilance. The vigilance also would conduct home enquiry. That would assist the Committee in arriving at a proper conclusion.

6. In light of the above, the impugned order is quashed and set aside. The petitioner is relegated before the committee.

7. The petitioner shall appear before the Committee on 12th March, 2019.

8. The Committee shall refer the matter to the vigilance. After obtaining the vigilance report and say of the petitioner, shall decide the proceedings afresh, expeditiously and preferably within a period of three months from the date of appearance of the petitioner.

9. The Writ Petition is disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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