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

WRIT PETITION NO.635 OF 2019

Shah Abdul Qadir Ismail Shah,
Age: 48 years, Occu: Labour,
R/o: Shahnoorwadi Dargah Road,
Galli No.3, Near Masjid, Shahnoorwadi,
Aurangabad

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Social Justice Department,
Mantralaya, Mumbai-32
2. The District Caste Certificate Scrutiny
Committee, Through its Chairman,
Samajik Nyay Bhavan,
Khokadpura, Aurangabad
3. The Sub-Divisional Officer,
Vaijapur, District Aurangabad

..RESPONDENTS

Mr H. A. Joshi, Advocate for petitioner;
Mr S. S. Dande, A.G.P. for respondents

**WITH
WRIT PETITION NO.661 OF 2019**

Shah Juber s/o Shah Sagir Ismail,
Minor, through natural guardian father
Shah Sagir Ismail,
Age: 40 years, Occu: Agril.,
R/o: Galli No.3, near Shah nawaz Masjid,
Shahnoorwadi, Aurangabad

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Social Justice Department,
Mantralaya, Mumbai-32
2. The District Caste Certificate Scrutiny
Committee, Through its Chairman,
Samajik Nyay Bhavan,
Khokadpura, Aurangabad

(2)

3. The Sub-Divisional Officer,
Vaijapur, District Aurangabad ..RESPONDENTS

Mr H. A. Joshi, Advocate for petitioner;
Mr V. S. Badakh, A.G.P. for respondents

WITH
WRIT PETITION NO.662 OF 2019

Shah Saber Shah Sagir Ismail,
Minor, through natural guardian father
Shah Sagir Ismail,
Age: Major, Occu: Agril.,
R/o: Galli No.3, near Masjid,
Shahnoorwadi, Aurangabad ..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Social Justice Department,
Mantralaya, Mumbai-32
2. The District Caste Certificate Scrutiny
Committee, Through its Chairman,
Samajik Nyay Bhavan,
Khokadpura, Aurangabad
3. The Sub-Divisional Officer,
Vaijapur, District Aurangabad ..RESPONDENTS

Mr H. A. Joshi, Advocate for petitioner;
Mrs M. A. Deshpande, A.G.P. for respondents

WITH
WRIT PETITION NO.663 OF 2019

Abdul Azim Abdul Qadir,
Age: 23 years, Occu: Nil,
R/o: Shahnoorwadi Dargah Road,
Galli No.3, Near Masjid,
Shahnoorwadi, Aurangabad ..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Social Justice Department,
Mantralaya, Mumbai-32

(3)

2. The District Caste Certificate Scrutiny Committee, Through its Chairman, Samajik Nyay Bhavan, Khokadpura, Aurangabad

3. The Sub-Divisional Officer, Vaijapur, District Aurangabad

..RESPONDENTS

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

WITH
WRIT PETITION NO.687 OF 2019

Shah Sagir Ismail,
Age: 39 years, Occu: Business,
R/o: Shahnoorwadi, Near Shahnawaz Masjid,
Dargah Road, Aurangabad

..PETITIONER

VERSUS

1. The State of Maharashtra, Through its Secretary, Social Justice Department, Mantralaya, Mumbai-32
2. The District Caste Certificate Scrutiny Committee, Through its Chairman, Samajik Nyay Bhavan, Khokadpura, Aurangabad
3. The Sub-Divisional Officer, Vaijapur, District Aurangabad

..RESPONDENTS

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

WITH
WRIT PETITION NO.688 OF 2019

Mohd. Amanullah Azam Shah s/o Shah Azam,
Minor, through natural guardian father
Shah Azam s/o Ahmed Shah
R/o: Galli No.13, Baijipura,
Aurangabad

..PETITIONER

VERSUS

(4)

1. The State of Maharashtra,
Through its Secretary,
Social Justice Department,
Mantralaya, Mumbai-32
2. The District Caste Certificate Scrutiny
Committee, Through its Chairman,
Samajik Nyay Bhavan,
Khokadpura, Aurangabad
3. The Sub-Divisional Officer,
Vaijapur, District Aurangabad ..RESPONDENTS

Mr H. A. Joshi, Advocate for petitioner;
Mr S. S. Dande, A.G.P. for respondents

WITH
WRIT PETITION NO.689 OF 2019

Shah Tabassum Abdul Kadir,
Age: 21 years, Occu: Student,
R/o: Shahnoorwadi, Near Shahnawaz Masjid,
Dargah Road, Aurangabad ..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Social Justice Department,
Mantralaya, Mumbai-32
2. The District Caste Certificate Scrutiny
Committee, Through its Chairman,
Samajik Nyay Bhavan,
Khokadpura, Aurangabad
3. The Sub-Divisional Officer,
Vaijapur, District Aurangabad ..RESPONDENTS

Mr H. A. Joshi, Advocate for petitioner;
Mr K. N. Lokhande, A.G.P. for respondents

WITH
WRIT PETITION NO.690 OF 2019

Shah Azhar Shah Sagir Ismail,
Age: 19 years, Occu: Nil,
R/o: Shahnoorwadi Dargah Road,
Galli No.3, near Masjid,
Shahnoorwadi, Aurangabad ..PETITIONER

(5)

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Social Justice Department,
Mantralaya, Mumbai-32
2. The District Caste Certificate Scrutiny
Committee, Through its Chairman,
Samajik Nyay Bhavan,
Khokadpura, Aurangabad
3. The Sub-Divisional Officer,
Vaijapur, District Aurangabad

..RESPONDENTS

Mr H. A. Joshi, Advocate for petitioner;
Mr V. S. Badakh, A.G.P. for respondents

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

DATE : 18th January, 2019

ORAL JUDGMENT (PER : PRASANNA B. VARALE, J.)

Heard learned Counsel appearing on behalf of the petitioners.

2. In view of the material placed on record and since the petitions involve common issue, they are heard together and are being decided by this common judgment. Rule is granted and made returnable forthwith by consent of the parties.

3. The petitioners are before this Court challenging the orders at Exhs.G and B to the petitions, passed by respondent Nos.2 and 3 respectively, i.e. District Caste Certificate Scrutiny Committee (for short 'the Committee') and Sub Divisional Officer, Vaijapur.

4. Learned Counsel appearing on behalf of the petitioners submitted that the petitioners belong to “Chhapparband” caste which is recognized as 'Vimukta Jati (A)' and though the petitioners are engaged in labour work, as their wards are prosecuting their studies, they were desirous of having caste certificates duly issued by the competent authorities. Accordingly, the petitioners had approached the Sub Divisional Officer, Vaijapur, Dist. Aurangabad along with all the requisite documents in support of their claim, namely, school leaving certificates of the petitioners themselves, the school leaving certificates issued in favour of the real uncle/grandfather of the petitioners having an entry to the effect that he is belonging to “Chhapparband” caste as well as the death certificates issued by the panchayat in respect of the father of the petitioner and copy of a validity certificate granted in favour of their real uncle/grandfather. The petitioners also placed on record the school leaving certificates issued in favour of their other relatives.

5. Learned Counsel appearing on behalf of the petitioners by inviting our attention to the order passed by the Sub Divisional Officer, Vaijapur (Exh.B) submitted that the Sub Divisional Officer, only on a mechanical appreciation of the material placed on record rejected the applications. Learned Counsel further submitted that when there were sufficient documents placed on record to show that the number of family members of the petitioners and moreover the blood relations of the family members were residents of village Shillegaon, Tq. Gangapur, Dist. Aurangabad

(7)

possessing the documents issued by the school authorities, the Sub Divisional Officer, by one stroke turned down all this material and then only on a document I.e the school admission certificate of the uncle/grandfather of the petitioners wherein the date of birth was recorded as “31st June, 1948”, rejected the applications. Learned Counsel submitted that the Sub Divisional Officer failed to consider the very material and relevant document supporting the claim of the petitioners, namely, a validity certificate issued in favour of the uncle/grandfather of the petitioners. By rejecting the applications, the petitioners were permitted to avail the remedy of an appeal before the Committee. The petitioners immediately submitted an appeal to the Committee. The Committee again, though refers to the documents submitted by the petitioners, on a mechanical appreciation dismissed the appeals. The list of these documents is referred to in the orders and they are as many as 31 documents. Out of these 31 documents, there are at least 25 documents showing the social status of either the petitioners or their blood relations as members belonging to 'Chhapparband' caste. The Committee, as like the Sub Divisional Officer insisted for revenue record prior to 1961. Interestingly enough, the Committee though insisted on these grounds has not assigned any reasons for upholding the orders of the Sub Divisional Officer and the Committee proceeded with the appeals as if the petitioners were approaching to the Committee at first instance. The Committee also committed a serious error in considering the validity certificate issued in favour of the real uncle/grandfather of the petitioners. The copy of the validity certificate issued in favour of the uncle/grandfather of the

(8)

petitioners is placed on record.

6. Learned Asstt. Govt. Pleader appearing on behalf of respondents opposes the petitions.

7. The aforesaid validity certificate is issued by the Committee on 1st September, 2014 and it further shows that hearing was taken while issuing validity certificate, meaning thereby while issuing certificate dated 1st September, 2014, the Committee arrived at a conclusion on assessment of the material; documentary or otherwise. Interestingly enough again, the Committee in its decision states that the original affidavit in respect of the uncle/grandfather of the petitioners, namely, Ahmad Shah Papa Shah was called upon and there was an entry in some school record of Mr Ahmad Shah Papa Shah showing the entry of "Fakir" and Fakir caste is covered under Other Backward Classes category. This is certainly not the assessment of a validity certificate issued in favour of the real uncle/grandfather of the petitioners and moreover, the Committee could not have sat over as a further appellate authority on its own decision dated 1st September, 2014 only to reject the claim of the petitioners.

8. Learned Counsel appearing on behalf of the petitioners was also justified in placing reliance on the order of this Court dated 18th October, 2016 in Writ Petition No.10221 of 2016. It may be useful for our purposes to refer to certain observations of the Division Bench of this Court in paragraph 6 of the said order, which read thus:-

“6. 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. Prima facie, the vigilance has found the Nikahanama of the grandfather of the petitioner of the year 1961 showing caste as Chhapparband. Even Nikahnama of the year 1991 in respect of the father of the petitioner shows the caste as Chhapparband. The school record of the petitioner and his brother shows caste as Chhapparband. Entry of Muslim is the entry of religion and not of caste. Even otherwise, the caste certificate will have to undergo acid test of scrutiny at the time of seeking validity of the said caste certificate”

9. Having regard to aforesaid discussion, we are of the opinion that the learned Counsel for the petitioners has made out a case and the orders impugned herein are clearly unsustainable. Writ Petitions thus stand allowed in terms of prayer clause (A) and (B).

Rule made absolute accordingly.

(S.M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)