

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.69 OF 2017

Sayyed Karim Babu,
Age-40 years, Occu:Service as
Lecturer, R/o-Near Shanidev Temple,
Mukhed, Tq-Mukhed, Dist-Nanded.

...PETITIONER

VERSUS

- 1) The Scheduled Caste, Vimukta Jatis,
Nomadic Tribes, Other Backward
Class and Special Backward Class
Divisional Caste Scrutiny Committee
No.2, Aurangabad Division, at Latur,
Through its Member Secretary,
- 2) The Janta Shikshan Prasarak Mandal,
Umardari, Tq-Mukhed, Dist-Nanded,
Through its Secretary,
- 3) Shri Shivaji Junior College,
CIDCO, New Nanded,
Through its Principal.

...RESPONDENTS

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Mr.Anand V. Indrale Patil Advocate for Petitioner.
Mr.S.S. Dande, A.G.P. for Respondent No.1.
Respondent Nos.2 and 3 served – absent.

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CORAM: SUNIL P. DESHMUKH AND
S.M. GAVHANE, JJ.

DATE : 7TH OCTOBER, 2019

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

1. Rule. Rule made returnable forthwith. Heard learned counsel for the appearing parties finally, by consent.

2. Petitioner questions propriety, legality and validity of order passed by respondent No.1 – scrutiny committee dated 19th November, 2016, whereunder claim of the petitioner of being from vimukta jati category - "*chhaparband*", stands invalidated. Learned counsel for the petitioner, Mr. A.V. Patil submits that despite sufficient record being available showing petitioner being from *chhaparband* community, disregarding said record for the same being of recent origin, would not be a proper consideration and the committee ought to have decided the claim of the petitioner with reference to record available before it. It is not a sound reason to discard the same as being of recent origin while the record shows that the petitioner belongs *chhaparband* community. He further submits that order of the committee is improper in discarding school record of 1920 about petitioner's grand-father showing him from *chhaparband* community. Vigilance report does show that necessary care had

been taken while making report to the committee about this particular record of the school and the report shows on inspection of the school record, grand-father of the petitioner is seen to be from *chhaparband* community. He further submits that, even the record which is produced by the committee before this court would show that the school record shows grand-father of the petitioner being from *chhaparband* community. He submits that while this is a factual position, the committee tends to rely upon a statement made by a teacher of the school who perhaps had not been adequately equipped in the matter in respect of record and more particularly not well versed in the language in which original record is maintained i.e. urdu language. It was not verified whether he has sufficient proficiency over urdu language. Mr. Patil goes on to submit that even the documents, particularly, *nikahnama* and mortgage deed have been wrongly discarded, for those being not registered. He submits that there is sufficient record showing origin of the said documents and same being verified from authorized official, could not have been discarded for the reason which has weighed with the scrutiny committee. Learned counsel in support of aforesaid, refers to decision of this court in the case

of *Rajesh Jagdishrao Gode vs. State of Maharashtra*, reported in 2006(4) All M.R. 131, and particularly paragraphs 6 and 7 thereof. He also, in support of aforesaid submissions, refers to and relies on yet another judgment of a division bench of this court in the case of *Vajjnath s/o Jagannath Zunjkar vs. Scrutiny Committee For Verification of Tribe Claims, Aurangabad and another*, reported in 2006(4) All M.R. 554. He therefore, urges this court, having regard to aforesaid aspects, to direct respondent No.1 committee to issue necessary validity certificate in favour of the petitioner.

3. Learned AGP submits that documents in respect of school record of grand-father of petitioner, *nikahnama* and mortgage deed have been considered properly by the committee and discarded the same. The reasons on which directions are sought do not have much substance. This is not such a case wherein directions can be given to the scrutiny committee to issue validity certificate in favour of the petitioner.

4. Having regard to aforesaid, it appears that there is substance in the submissions made on behalf of the petitioner and the committee will have to re-look into the matter,

particularly, in respect of grand-father's record produced by the petitioner and vigilance report in respect of the same as well as *nikahnama* and its origin and record in respect of the same, as well as the submissions of the petitioner in respect of mortgage deed, as order impugned does not reflect upon proper application of mind to the same as order tends to be unspeaking in respect of various aspects involved in the same. The committee would have to reconsider the same and to ascertain the veracity of the claim of the petitioner. It is open for the petitioner to bring to the notice of the committee two decisions cited above. The record which is made available by the petitioner may as well be reconsidered afresh. All points are kept open for parties.

5. As such, the impugned order is set aside. The claim made by the petitioner is restored for re-consideration afresh by the scrutiny committee, keeping in view the observations made in this order as well as the reported cases, referred above.

6. Since the earlier decision is rendered by the scrutiny committee at Latur, the petitioner being from Nanded and

committee is available at Nanded, the matter be remitted to the scrutiny committee at Nanded. We hope that the scrutiny committee at Nanded would reconsider the matter and decide the same preferably within a period of six months from the date of receipt of writ of this order.

7. Interim relief operating to continue to operate till the decision by the scrutiny committee at Nanded.

8. Rule is made absolute accordingly. The writ petition stands disposed of.

(S.M. GAVHANE, J.)

asb/OCT19

[SUNIL P. DESHMUKH, J.]