

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7086 OF 2013

Shaikh Intajabi Ibrahi	..	Petitioner
Versus		
The Divisional Caste Scrutiny Committee, No.1 Solapur	..	Respondent

Mr. S.M.Oak with Sagar Joshi for petitioner
Mr. V.M.Mali, AGP for respondent No.1.

CORAM : B.R.GAVAI &
DAMA SESHADRI NAIDU, JJ.

DATE : 13th March 2019.

P.C.

Rule. Rule made returnable forthwith. By consent heard parties.

2] The petitioner has approached this Court being aggrieved by the order dated 11th July 2013 vide which the claim of the petitioner for grant of caste validity certificate of belonging to Fakir Bandarwala caste which is recognised as OBC, was rejected.

3] Heard Mr. Oak for petitioner and learned AGP for State.

4] Learned Counsel for the petitioner states that though the petitioner's real brother's sons have been granted validity certificate, the claim of petitioner has been illegally rejected. He submits that the impugned order is totally in violation of law laid down by this Court in the case of Apurva D/o. Vijay Nichale Vs. Divisional Caste Verification Scrutiny Committee & Ors., reported in **2010 (6) Mh.L.J 401.**

5] Learned AGP, Mr. Mali submits that the petitioner has failed to establish the relationship with his brother's sons and, therefore, the claim has rightly been rejected.

6] We have time and again reiterated that Members of Caste Scrutiny committee are acting totally without any application of mind. In the present case also the stand taken by the respondent Committee is totally contrary to the report of Vigilance Cell, which members of the Committee are kind enough to place on record. Though, it is the petitioner, who is expected to have placed the report of vigilance cell on record, the Committee has done so. A

perusal of the report of vigilance cell reveals that in the vigilance enquiry the claim of the petitioner has been fortified. Not only that the vigilance cell even confirmed that petitioner's real brother's sons have been granted validity certificate.

7] In that view of the matter, we find that the impugned order is totally in violation of the law laid down in the case of Apurva Nichale (supra) which holds that when a validity certificate has been issued to a close relative of a candidate, the validity cannot be rejected to the candidate. In that view of the matter, the impugned order is quashed and set aside. The petitioner is held and declared to be belonging to Fakir Bandarwala caste recognised as OBC. Accordingly, the validity certificate be issued within two weeks from today.

(DAMA SESHADRI NAIDU, J)

(B.R.GAVAI, J)