

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4147 OF 2018**

Elai Mohiddin Shaikh

...Petitioner

Vs.

The State of Maharashtra and Ors.

...Respondents

Mr. C.K. Bhangoji for the Petitioner.

Mrs. M.S. Srivastav, AGP for the Respondent Nos.1 to 4.

**CORAM : B. P. DHARMADHIKARI &
SMT. SADHANA S. JADHAV, JJ.**

DATE : 6th NOVEMBER 2019.

PC.:

1 Heard finally. Petitioner contested election for Hatad Grampanchayat conducted on 1st November 2015. He contested that election as a candidate belonging to “Kasar OBC” and won it. By the impugned order dated 16th July 2016/ 30th July 2016 the caste claim has been invalidated on the ground that petitioner could not produce any evidence to show that his family was in the business as Kasar. The other ground given is Kasar Community exists amongst Hindus while in Mohammedan, persons doing similar business are identified as Maneri/ Maniyar. The Committee has also stated that Kasar or Maneri/ Maniyar are not equivalent.

2 Counsel for the petitioner invites attention to report of vigilance cell dated 23rd May 2016 to urge that all documents which mention caste as Kasar are found to be genuine. He submits that Committee has also accepted that amongst Mohammedan there is no system of mentioning caste. Vigilance cell as also the Committee has also ignored oral evidence of four persons which shows that family of petitioner

is in bangle business and are known as Kasar in the vicinity. The learned APP supports impugned order. She relies upon observation that there is no evidence of any business of petitioner and his family and Kasar do not exists amongst Mohammedans.

3 We have perused the vigilance cell report. Vigilance cell has observed that no documents about the business of family are produced. However, little later, the cell has mentioned names of four persons who support the family business. Report indicates that since 1950 family of petitioner is residing in Solapur District. The persons named therein are about 70 years old and they have stated that traditionally, family of petitioner is in the business of sale of bangles and their identity as persons belonging to Kasar caste. Grandfather and great grandfather of petitioner were also doing said business. Muslim of Backward Classes Organisation has accordingly given a certificate in favour of the petitioner. The other local officers like Talathi, Gram Sevak, Sarpanch have also given similar certificates.

4 In this situation, we find observation that there is no material on record to show family business of petitioner unsustainable. Nature of business has been brought on record specifically and Scrutiny Committee nowhere says that it is not the business of Maneri or Maniyar Caste which according to it exists in Mohammedans.

5 We therefore find entire approach of the Committee unsustainable. We quash and set aside the order dated 16th July 2016/30th July 2016 and direct the Committee to issue validity to the petitioner within 8 weeks from today.

6 The Petition is thus allowed and disposed of.

(SMT. SADHANA S. JADHAV, J.)

(B. P. DHARMADHIKARI, J.)